

HR 4170

Public Laws: 98th Congress / 1st &amp; 2nd Sessions / 1983-1984

# Ninety-eighth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-third day of January,  
one thousand nine hundred and eighty-four*

### An Act

Stenhouse

PL 98-369

July 18,

1984

To provide for tax reform, and for deficit reduction.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

(a) **SHORT TITLE.**—This Act may be cited as the “Deficit Reduction Act of 1984”.

(b) **ACT DIVIDED INTO 2 DIVISIONS.**—This Act consists of 2 divisions as follows:

(1) **DIVISION A.**—Tax Reform Act of 1984.

(2) **DIVISION B.**—Spending Reduction Act of 1984.

#### DIVISION A—TAX REFORM ACT OF 1984

##### SEC. 5. SHORT TITLE; ETC.

(a) **SHORT TITLE.**—This division may be cited as the “Tax Reform Act of 1984”.

(b) **AMENDMENT OF 1954 CODE.**—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

##### SEC. 10. TABLE OF CONTENTS.

Section 1. Short title.

#### DIVISION A—TAX REFORM ACT OF 1984

Sec. 5. Short title, etc.

#### TITLE I—TAX FREEZE; TAX REFORMS GENERALLY

Sec. 10. Table of contents.

#### Subtitle A—Deferral of Certain Tax Reductions

##### PART I—INCOME TAX PROVISIONS

- Sec. 11. Amount of used property eligible for investment tax credit.
- Sec. 12. Finance lease provisions.
- Sec. 13. Election to expense certain depreciable business assets.
- Sec. 14. Employee stock ownership credit.
- Sec. 15. Cost-of-living adjustments in pension plan limitations.
- Sec. 16. Repeal of partial interest exclusion.
- Sec. 17. Foreign earned income of individuals.
- Sec. 18. Effective date.

##### PART II—ESTATE AND GIFT TAX RATES

Sec. 21. Maximum rate.

##### PART III—EXCISE TAXES

- Sec. 25. Tax rate on newly discovered oil.
- Sec. 26. Excise tax on communications services.
- Sec. 27. Excise tax on distilled spirits.



Such study shall also identify the strengths and potential weaknesses of an alternative tax system and propose possible solutions for any such potential weakness.

(c) **ALTERNATIVE TAX SYSTEM.**—For purposes of this section, the term “alternative tax system” means a system based on—

- (1) a simplified income tax based on gross income;
- (2) a consumption tax;
- (3) a consumption-based tax; or
- (4) the broadening of the base and lowering of the rates of the current income tax.

(d) **STUDY OF TAX SHELTERS TO BE INCLUDED.**—The study conducted under subsection (a) shall include a study of the entire area of tax shelters and how they impact on the equity of the tax system.

(e) **REPORTING DATE.**—The report of the study required by subsection (a) shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than December 31, 1984.

#### **SEC. 1082. STUDY OF TAXATION BY FOREIGN COUNTRIES ON SERVICES PERFORMED IN THE UNITED STATES.**

(a) **STUDY.**—The Secretary of the Treasury or his delegate shall conduct a study of the practices of foreign countries of taxing income on services performed within the United States, including, but not limited to—

- (1) the status of treaty negotiations with such foreign countries with respect to such practices, and
- (2) any options to alleviate the taxation of such income by more than 1 country without appropriate credit for taxes paid.

(b) **REPORT.**—The Secretary of the Treasury or his delegate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a) no later than December 31, 1984.

### **DIVISION B—SPENDING REDUCTION ACT OF 1984**

**SEC. 2001.** This division may be cited as the “Spending Reduction Act of 1984”.

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Title I. General provisions.  
Title II. Civil Service and military retirement programs.  
Title III. Medicare, medicaid, and maternal and child health amendments.  
Title IV. Small business programs.  
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Title VII. Competition in contracting.  
Title VIII. Federal Credit Union Act Amendments.  
Title IX. Miscellaneous provisions.

## **TITLE I—GENERAL PROVISIONS**

#### **SENSE OF SENATE STATEMENT**

**SEC. 2101.** It is the sense of the Senate that ceilings on fiscal year 1985 appropriation bills shall not exceed, in the aggregate, \$139.8 billion for non-defense, discretionary accounts, and shall not exceed \$299 billion for defense accounts. Further, it is the sense of the Senate that the allocations of these sums, normally done through





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the section 302(b) process under the Congressional Budget and Impoundment Control Act of 1974, in the absence of a first concurrent budget resolution for fiscal year 1985 will be done by the Senate Appropriations Committee to guide its subcommittees in their separate deliberations on individual appropriation bills for fiscal year 1985.

### SENSE OF HOUSE STATEMENT

SEC. 2102. (a) It is the sense of the House that in fiscal years 1985, 1986, and 1987, Federal deficits be reduced by \$182 billion as a result of the first concurrent resolution on the budget for fiscal year 1985 and the Deficit Reduction Act of 1984. Further, it is the sense of the House that these deficit reductions shall be divided among revenue increases, domestic spending reductions, and limits on the growth in military spending.

(b) It is the sense of the House that in the absence of agreement on a first concurrent resolution on the budget for fiscal year 1985 that the House will continue to abide by House Concurrent Resolution 280, as passed the House.

(c) It is the sense of the House that the Congress shall immediately adopt a conference report on the first concurrent resolution on the budget for fiscal year 1985 and that the Congress shall enforce the aggregate levels of revenue and spending provided in such resolution.

### RESCISSION

SEC. 2103. Of the amounts provided in Public Law 96-126, the Department of the Interior and Related Agencies Appropriation Act, 1980, for the "Energy Security Reserve", \$2,000,000,000 are rescinded, of which \$1,154,950,000 is to be derived from the unused portion of the commitment of financial assistance previously awarded to The Oil Shale Company (Colony Shale Oil Project).

## TITLE II—CIVIL SERVICE AND MILITARY RETIREMENT PROGRAMS

### COST-OF-LIVING ADJUSTMENTS UNDER GOVERNMENT RETIREMENT SYSTEMS

SEC. 2201. (a) Notwithstanding any other provision of law, beginning with the monthly rate payable for December 1984, any annuity or retired or retirement pay payable under any retirement system for Government officers or employees which the President adjusts pursuant to section 8340(b) of title 5, United States Code, shall be paid no earlier than the first business day of the succeeding month.

(b) Section 8340(c)(1) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking out "computer" and inserting in lieu thereof "computed"; and

(2) in subparagraph (B), by striking out "counting" and inserting in lieu thereof "not to exceed 12 months, counting".

### TECHNICAL AMENDMENT RELATING TO PREVAILING RATE EMPLOYEES

SEC. 2202. (a) Notwithstanding any other provision of law, effective as of October 1, 1983, any adjustment in a wage schedule or rate—



(1) that applies—

(A) to a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code;

(B) to an employee covered by section 5348 of such title;

or

(C) to any other employee subject to section 202(b)(1) of the Omnibus Budget Reconciliation Act of 1983 (Public Law 98-270; 98 Stat. 158);

(2) that results from a wage survey; and

(3) that first becomes effective during the fiscal year ending September 30, 1984;

shall not take effect until the first day of the first applicable pay period beginning after the expiration of the 90-day period beginning on the date on which such adjustment would otherwise have taken effect.

(b) The Office of Personnel Management shall take such actions as may be necessary to carry out the provisions of this section.

DEDUCTION FROM CIVILIAN PAY FOR COST-OF-LIVING ADJUSTMENT OF  
RETIRED OR RETAINER PAY

SEC. 2203. Subsection (d) of section 301 of the Omnibus Budget Reconciliation Act of 1982 (96 Stat. 791; 5 U.S.C. 5532 note) is repealed, effective with respect to pay periods beginning after the date of enactment of this Act.

LEAVE FOR CERTAIN OVERSEAS EMPLOYEES

SEC. 2204. Subsection (a) of section 6 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (73 Stat. 214; 20 U.S.C. 904(a)) is amended by striking out "except that—" and all that follows through the end of such subsection and inserting in lieu thereof "except that if the school year includes more than eight months, any such teacher who shall have served for the entire school year shall be entitled to ten days of cumulative leave with pay."

CIVIL SERVICE RETIREMENT DEPOSITS COVERING MILITARY SERVICE

SEC. 2205. The first sentence of section 306(g) of the Omnibus Budget Reconciliation Act of 1982 (5 U.S.C. 8331 note) is amended by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1985".

ELECTION OF RETIREMENT PLAN

SEC. 2206. (a) For the purposes of this section, the term "covered retirement system" shall have the same meaning as provided in section 203(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (Public Law 98-168; 97 Stat. 1107).

(b)(1) Any individual who was entitled to make an election under section 208(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1111), but who did not make such an election, may make an election under such section not later than September 15, 1984.

(2)(A) Not later than September 15, 1984, any such individual who made an election under paragraph (1) of section 208(a) of the Federal





Employees' Retirement Contribution Temporary Adjustment Act of 1983 may—

(i) make any other election which such individual was entitled to make under such section before January 1, 1984; or

(ii) elect to become a participant in a covered retirement system (if such individual is otherwise eligible to participate in such system), subject to sections 201 through 207 of such Act.

(B) Not later than September 15, 1984, any such individual who made an election under paragraph (2) of section 208(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 may—

(i) make any other election which such individual was entitled to make under such section before January 1, 1984; or

(ii) elect to terminate participation in the covered retirement system with respect to which such individual made the election under such paragraph (2).

(3) An election under this subsection shall be made by a written application submitted to the official by whom the electing individual is paid.

(4) An election made as provided in this subsection shall take effect with respect to service performed on or after the first day of the first applicable pay period commencing after September 15, 1984.

(c)(1) Section 8342(a)(4) of title 5, United States Code, does not apply for the purpose of determining an entitlement to a refund under section 208(c) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1111).

(2) Paragraph (1) shall take effect with respect to any election made under section 208(a) of such Act or this Act before, on, or after January 1, 1984.

(d) Nothing in this section or the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 affects any entitlement to benefits accrued under a covered retirement system before January 1, 1984, except to the extent that any amount refunded under section 208(c) of such Act is not redeposited in the applicable retirement fund.

#### SALARY ADJUSTMENTS FOR JUDGES

SEC. 2207. Effective on the first day of the first applicable pay period commencing on or after January 1, 1984, each rate of pay subject to adjustment by section 461 of title 28, United States Code, shall be increased by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100), equal to the overall percentage of the adjustment taking effect under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule during fiscal year 1984.

#### RETIREMENT BENEFITS FOR NATIVES OF THE PRIBILOF ISLANDS

SEC. 2208. (a) Section 8332(b) of title 5, United States Code, is amended by striking out the period at the end of the second paragraph (13) and inserting in lieu thereof the following: “, and regardless of whether the Native who performs the service retires before, on, or after the effective date of this paragraph.”.

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(b) Title II of Public Law 89-702, as amended by section 2 of Public Law 98-129, is amended by adding at the end thereof the following new section:

"Sec. 212. (a)(1) An annuity or survivor annuity based on the service of an employee or Member who performed service described in the second paragraph (13) of subsection (b) or subsection (1)(1)(C) of section 8332 of title 5, United States Code, as added by subsections (b) and (e), respectively, of section 209 of this Act, shall, upon application to the Office of Personnel Management, be recomputed in accordance with the second paragraph (13) of subsection (b) and subsection (1), respectively, of such section 8332, regardless of whether the employee or Member retires before, on, or after the effective date of this paragraph.

"(2) Any recomputation of annuity under paragraph (1) of this subsection shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Office."

(c) The amendments made by this section shall take effect as of October 14, 1983.

#### AMENDMENT TO OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SEC. 2209. Section 1722 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 759) is amended by striking out "1984" and inserting in lieu thereof "1987".

## TITLE III—MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH AMENDMENTS

#### SHORT TITLE OF TITLE

SEC. 2300. This title may be cited as the "Medicare and Medicaid Budget Reconciliation Amendments of 1984".

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- Sec. 2301. Modification of working aged provision.
- Sec. 2302. Part B premium.
- Sec. 2303. Payment for clinical diagnostic laboratory tests.
- Sec. 2304. Pacemaker reimbursement review and reform.
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- Sec. 2319. Skilled nursing facility reimbursement.
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- Sec. 2331. Repeal of exclusion of for-profit organizations from research and demonstration grants.
- Sec. 2332. Presidential appointment of and pay level for the administrator of the health care financing administration.
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- Sec. 2336. Access to home health services.
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- Sec. 2342. Establishment by physical therapists of plans for physical therapy.
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### Subtitle B—Medicaid and Maternal and Child Health Amendments

- Sec. 2361. Medicaid coverage for pregnant women and children.
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Sec. 2391. Study.

**Subtitle A—Medicare Amendments**

**PART I—REIMBURSEMENT AND BENEFIT  
CHANGES**

**MODIFICATION OF WORKING AGED PROVISION**

SEC. 2301. (a) Section 1862(b)(3)(A)(i) of the Social Security Act is amended by striking out "over 64 but" each place it appears.

(b) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 is amended—

(1) by inserting ", and any employee's spouse aged 65 through 69," after "aged 65 through 69"; and

(2) by inserting ", and the spouse of such employee," after "same conditions as any employee".

(c)(1) The amendment made by subsection (a) shall be effective with respect to items and services furnished on or after January 1, 1985.

(2) The amendment made by subsection (b) shall become effective on January 1, 1985.

**PART B PREMIUM**

SEC. 2302. (a) Section 1839(e) of the Social Security Act is amended by striking out "1986" each place it appears and inserting in lieu thereof in each instance "1988".

(b) Section 1839 of such Act is amended by adding at the end thereof the following new subsection:

"(f)(1) If no cost-of-living increase becomes effective under section 215(i) in December of 1985 or 1986, the monthly premium of each individual enrolled under this part for each month in the succeeding year shall (except as otherwise provided in subsection (b)) be the same as the monthly premium (disregarding subsection (b)) of the individual for such December.

"(2) If paragraph (1) does not apply to the monthly premiums for 1986 or 1987, if an individual is entitled to monthly benefits under section 202 or 223 for November and for December in the preceding year, and if the monthly premium for that December and for the following January is deducted from those benefits under section 1840(a)(1), the monthly premium for that individual for that January and for each of the succeeding 11 months for which he is entitled to benefits under section 202 or 223 shall (except as otherwise provided in subsection (b)) be the greater of—

"(A) the monthly premium amount determined under subsection (a)(2) for that January reduced by the amount (if any) necessary to make the monthly benefits under section 202 or 223 for that January after the deduction of the monthly premium (disregarding subsection (b)) for that January at least equal to the monthly benefits under section 202 or 223 for the preceding November after the deduction of the premium (disregarding subsection (b)) for that individual for that November, or

"(B) the monthly premium (disregarding subsection (b)) for that individual for that December.





For purposes of this subsection, retroactive adjustments or payments and deductions on account of work shall not be taken into account in determining the monthly benefits to which an individual is entitled under section 202 or 223."

(c) The amendments made by this section shall apply to premiums for months beginning with January 1986.

PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS

SEC. 2303. (a) Section 1833(a)(1)(D) of the Social Security Act is amended to read as follows: "(D) with respect to clinical diagnostic laboratory tests for which payment is made under this part (i) on the basis of a fee schedule under subsection (h)(1), the amount paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) or under the procedure described in section 1870(f)(1)) of the lesser of the amount determined under such fee schedule or the amount of the charges billed for the tests, or (ii) on the basis of a negotiated rate established under subsection (h)(6), the amount paid shall be equal to 100 percent of such negotiated rate,".

(b) Section 1833(a)(2) of such Act is amended—

(1) in subparagraph (B), by inserting "or (D)" after "subparagraph (C)";

(2) by striking out "and" at the end of subparagraph (B);

(3) by adding "and" at the end of subparagraph (C); and

(4) by adding at the end thereof the following new subparagraph:

"(D) with respect to clinical diagnostic laboratory tests for which payment is made under this part (i) on the basis of a fee schedule determined under subsection (h)(1), the amount paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or to a provider having an agreement under section 1866) of the lesser of the amount determined under such fee schedule or the amount of the charges billed for the tests, or (ii) on the basis of a negotiated rate established under subsection (h)(6), the amount paid shall be equal to 100 percent of such negotiated rate for such tests;".

(c) Section 1833(b) of the Social Security Act is amended by striking out "and" at the end of clause (2) and by inserting before the period at the end of clause (3) the following: ", and (4) such deductible shall not apply with respect to clinical diagnostic laboratory tests for which payment is made under this part (A) under subsection (a)(1)(D)(i) or (a)(2)(D)(i) on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or to a provider having an agreement under section 1866, or (B) on the basis of a negotiated rate determined under subsection (h)(6)".

(d) Section 1833(h) of such Act is amended to read as follows:

"(h)(1)(A) The Secretary shall establish fee schedules for clinical diagnostic laboratory tests for which payment is made under this part, other than such tests performed by a provider of services for an inpatient of such provider.

"(B) In the case of clinical diagnostic laboratory tests performed by a physician or by a laboratory (other than tests performed by a



hospital laboratory for outpatients of such hospital), the fee schedules established under subparagraph (A) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for tests furnished during the period beginning on July 1, 1984, and ending on June 30, 1987. For such tests furnished on or after July 1, 1987, the fee schedule shall be established on a nationwide basis.

“(C) In the case of clinical diagnostic laboratory tests performed by a hospital laboratory for outpatients of such hospital, the fee schedules established under subparagraph (A) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for tests furnished during the period beginning on July 1, 1984, and ending on June 30, 1987. For such tests furnished on or after July 1, 1987, the fee schedule under subparagraph (A) shall not apply with respect to clinical diagnostic laboratory tests performed by a hospital laboratory for outpatients of such hospital.

“(2) Except as provided in paragraph (4), the Secretary shall set the fee schedules at 60 percent (or, in the case of a test performed by a hospital laboratory for outpatients of such hospital, 62 percent) of the prevailing charge level determined pursuant to the third and fourth sentences of section 1842(b)(3) for similar clinical diagnostic laboratory tests for the applicable region, State, or area (or, effective July 1, 1987, for the United States) for the 12-month period beginning July 1, 1984, adjusted annually by a percentage increase or decrease equal to the percentage increase or decrease in the Consumer Price Index for All Urban Consumers (United States city average), and subject to such other adjustments as the Secretary determines are justified by technological changes. The Secretary may make further adjustments or exceptions to the fee schedules to assure adequate reimbursement of (A) emergency laboratory tests needed for the provision of bona fide emergency services, and (B) certain low volume high-cost tests where highly sophisticated equipment or extremely skilled personnel are necessary to assure quality.

“(3) In addition to the amounts provided under the fee schedules, the Secretary shall provide for and establish a nominal fee to cover the appropriate costs in collecting the sample on which a clinical diagnostic laboratory test was performed and for which payment is made under this part, except that not more than one such fee may be provided under this paragraph with respect to samples collected in the same encounter.

“(4) In establishing any fee schedule under this subsection, the Secretary may provide for an adjustment to take into account, with respect to the portion of the expenses of clinical diagnostic laboratory tests attributable to wages, the relative difference between a region's or local area's wage rates and the wage rate presumed in the data on which the schedule is based.

“(5)(A) In the case of a bill or request for payment for a clinical diagnostic laboratory test for which payment may otherwise be made under this part on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or under a provider agreement under section 1866, payment may be made only to the person or entity which performed or supervised the performance of such test; except that—

“(i) if a physician performed or supervised the performance of such test, payment may be made to another physician with whom he shares his practice, and

*30 hand to  
reimbursement  
repealed by  
9339(a)(1)(B)(ii) if  
PL 99-509*





"(ii) in the case of a test performed at the request of a laboratory by another laboratory, payment may be made to the referring laboratory.

"(B) In the case of such a bill or request for payment for a clinical diagnostic laboratory test for which payment may otherwise be made under this part, and which is not described in subparagraph (A), payment may be made to the beneficiary only on the basis of the itemized bill of the person or entity which performed or supervised the performance of the test.

"(C) Payment for a clinical diagnostic laboratory test performed by a laboratory which is independent of a physician's office or a rural health clinic may only be made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B) under the procedure described in section 1870(f)(1), or to a provider of services with an agreement in effect under section 1866.

"(6) In the case of any diagnostic laboratory test payment for which is not made on the basis of a fee schedule under paragraph (1), the Secretary may establish a payment rate which is acceptable to the person or entity performing the test and which would be considered the full charge for such tests. Such negotiated rate shall be limited to an amount not in excess of the total payment that would have been made for the services in the absence of such rate."

(e) Section 1842 of such Act is amended by striking out subsection (h) thereof.

(f) The last sentence of section 1866(a)(2)(A) of such Act is amended by inserting "and with respect to clinical diagnostic laboratory tests" after "section 1861(s)(10)".

(g)(1) Section 1902(a) of such Act is amended—

- (A) by inserting "and" at the end of paragraph (42);
- (B) by striking out paragraph (43); and
- (C) by redesignating paragraph (44) as paragraph (43).

(2) Section 1903(i) of such Act is amended—

- (A) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or ", and
- (B) by adding after paragraph (6) the following new paragraph:

"(7) with respect to any amount expended for clinical diagnostic laboratory tests performed by a physician, independent laboratory, or hospital, to the extent such amount exceeds the amount that would be recognized under section 1833(h) for such tests performed for an individual enrolled under part B of title XVIII."

(h) The Secretary of Health and Human Services shall simplify the procedures under section 1842 of the Social Security Act with respect to claims and payments for clinical diagnostic laboratory tests so as to reduce unnecessary paperwork while assuring that sufficient information is supplied to identify instances of fraud and abuse.

(i)(1) The Comptroller General shall report to the Congress on—

- (A) the appropriateness of the fee schedules under section 1833(h) of the Social Security Act and their impact on the volume and quality of clinical diagnostic laboratory tests;
- (B) the potential impact of the adoption of a national fee schedule; and

*assignment  
required*

*negotiated  
rate*

*simplification*



(C) the potential impact of applying a national fee schedule to clinical diagnostic laboratory tests provided by hospitals to their outpatients.

(2) The Secretary of Health and Human Services shall report to the Congress with respect to the advisability and feasibility of a system of direct payment to any physician for all clinical diagnostic laboratory tests ordered by such physician.

(3) The reports required by paragraphs (1) and (2) shall be submitted not later than January 1, 1987.

(j)(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to clinical diagnostic laboratory tests furnished on or after July 1, 1984.

(2) The amendments made by subsection (g)(2) shall apply to payments for calendar quarters beginning on or after October 1, 1984.

(3) The amendments made by this section shall not apply to clinical diagnostic laboratory tests furnished to inpatients of a provider operating under a waiver granted pursuant to section 602(k) of the Social Security Amendments of 1983. Payment for such services shall be made under part B of title XVIII of the Social Security Act at 80 percent (or 100 percent in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) of the Social Security Act or under the procedure described in section 1870(f)(1) of such Act) of the reasonable charge for such service. The deductible under section 1833(b) of such Act shall not apply to such tests if payment is made on the basis of such an assignment or procedure.

1903(i)(7)

exception  
to 602(k)  
waiver

#### PACEMAKER REIMBURSEMENT REVIEW AND REFORM

SEC. 2304. (a)(1) The Secretary of Health and Human Services shall issue revisions to the current guidelines for the payment under part B of title XVIII of the Social Security Act for the transtelephonic monitoring of cardiac pacemakers. Such revised guidelines shall include provisions regarding the specifications for and frequency of transtelephonic monitoring procedures which will be found to be reasonable and necessary.

(2)(A) Except as provided in subparagraph (B), if the guidelines required by paragraph (1) have not been issued and put into effect by October 1, 1984, and until such guidelines have been issued and put into effect, payment may not be made under part B of title XVIII of the Social Security Act for transtelephonic monitoring procedures, with respect to a single-chamber cardiac pacemaker powered by lithium batteries, conducted more frequently than—

(i) weekly during the first month after implantation,

(ii) once every two months during the period representing 80 percent of the estimated life of the implanted device, and

(iii) monthly thereafter.

(B) Subparagraph (A) shall not apply in cases where the Secretary determines that special medical factors (including possible evidence of pacemaker or lead malfunction) justify more frequent transtelephonic monitoring procedures.

(b)(1) The Secretary shall review, and report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate, regarding the appropriateness of the amounts recognized as reasonable under part B of title XVIII of the Social Security Act for physicians





services associated with implantation or replacement of pacemaker devices and pacemaker leads. Such review shall take into account the amounts recognized as reasonable with respect to such procedures and the time and difficulty of such procedures at the current time in comparison with such amounts and the time and difficulty of such procedures at the time the amounts for such procedures were first established under such part.

(2) The Prospective Payment Assessment Commission, established under section 1886(e) of the Social Security Act, shall review and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the appropriateness of the payment amounts provided under section 1886(d) of such Act for inpatient hospital services associated with implantation or replacement of pacemaker devices and pacemaker leads. Such review shall take into account the time, difficulty, and costs associated with such procedures at the current time in comparison with the time, difficulty, and costs associated with such procedures upon which the payment rates for such procedures under part A of title XVIII of such Act are based.

(3) The Secretary and the Commission shall each complete the review described in paragraph (1) or (2), respectively, of this subsection and report on such review not later than March 1, 1985.

(c) Section 1862 of the Social Security Act is amended by adding at the end the following new subsection:

“(h)(1)(A) The Secretary shall, through the Commissioner of the Food and Drug Administration, provide for a registry of all cardiac pacemaker devices and pacemaker leads for which payment was made under this title.

“(B) Such registry shall include the manufacturer, model, and serial number of each such device or lead, the name of the recipient of such device or lead, the date and location of the implantation or removal of the device or lead, the name of the physician implanting or removing such device or lead, the name of the hospital or other provider billing for such procedure, any express or implied warranties associated with such device or lead under contract or State law, and such other information as the Secretary deems to be appropriate.

“(C) Each physician and provider of services performing the implantation or replacement of pacemaker devices and leads for which payment is made or requested to be made under this title shall, in accordance with regulations of the Secretary, submit information respecting such implantation or replacement for the registry.

“(D) Such registry shall be for the purposes of assisting the Secretary in determining when payments may properly be made under this title, in tracing the performance of cardiac pacemaker devices and leads, in determining when inspection by the manufacturer of such a device or lead may be necessary under paragraph (3), and in carrying out studies with respect to the use of such devices and leads. In carrying out any such study, the Secretary may not reveal any specific information which identifies any pacemaker device or lead recipient by name (or which would otherwise identify a specific recipient).

“(E) Any person or organization may provide information to the registry with respect to cardiac pacemaker devices and leads other than those for which payment is made under this title.



“(2) The Secretary may, by regulation, require each provider of services—

“(A) to return, to the manufacturer of the device or lead for testing under paragraph (3), any cardiac pacemaker device or lead which is removed from a patient and payment for the implantation or replacement of which was made or requested by such provider under this title, and

“(B) not to charge any beneficiary for replacement of such a device or lead if the device or lead has not been returned in accordance with subparagraph (A).

“(3) The Secretary may, by regulation, require the manufacturer of a cardiac pacemaker device or lead (A) to test or analyze each pacemaker device or lead for which payment is made or requested under this title and which is returned to the manufacturer by a provider of services under paragraph (2), and (B) to provide the results of such test or analysis to that provider, together with information and documentation with respect to any warranties covering such device or lead. In any case where the Secretary has reason to believe, based upon information in the pacemaker registry or otherwise available to him, that replacement of a cardiac pacemaker device or lead for which payment is or may be requested under this title is related to the malfunction of a device or lead, the Secretary may require that personnel of the Food and Drug Administration be present at the testing of such device by the manufacturer, to determine whether such device was functioning properly.

“(4) The Secretary may deny payment under this title, in whole or in part and for such period of time as the Secretary determines to be appropriate, with respect to the implantation or replacement of a pacemaker device or lead of a manufacturer performed by a physician and provider of services after the Secretary determines (in accordance with the procedures established under paragraphs (2) and (3) of subsection (d)) that—

“(A) the physician or provider of services has failed to submit information to the registry as required under paragraph (1)(C),

“(B) the provider of services has failed to return devices and leads as required under paragraph (2)(A) or has improperly charged beneficiaries as prohibited under paragraph (2)(B), or

“(C) the manufacturer of the device or lead has failed to perform and to report on the testing of devices and leads returned to it as required under paragraph (3).”

(d) The Secretary of Health and Human Services shall promulgate final regulations to carry out this section and the amendment made by this section prior to January 1, 1985, and the amendment made by subsection (c) shall apply to pacemaker devices and leads implanted or removed on or after the effective date of such regulations.

**ELIMINATION OF SPECIAL PAYMENT PROVISIONS FOR PREADMISSION  
DIAGNOSTIC TESTING**

SEC. 2305. (a) Section 1833(a)(1) of the Social Security Act is amended by striking out “(F) with respect to” and all that follows through “(G)” and inserting in lieu thereof “and (F)”.

(b) Section 1833(a) of such Act is amended—

(1) by adding “and” at the end of paragraph (3);

(2) by striking out “; and” at the end of paragraph (4) and inserting in lieu thereof a period; and





(3) by striking out paragraph (5).

(c) Section 1833(a)(2) of such Act is amended by striking out "and in paragraph (5) of this subsection".

(d) Section 1833(b) and section 1833(i)(3) of such Act are each amended by striking out "subsection (a)(1)(G)" and inserting in lieu thereof "subsection (a)(1)(F)".

(e) The amendments made by this section shall apply to services performed after the date of the enactment of this Act.

(f) The amendments made by this section shall not be construed as prohibiting payment, subject to the applicable copayments, under part B of title XVIII of the Social Security Act for preadmission diagnostic testing performed in a physician's office to the extent such testing is otherwise reimbursable under regulations of the Secretary.

**LIMITATION ON PHYSICIAN FEE PREVAILING AND CUSTOMARY CHARGE LEVELS; PARTICIPATING PHYSICIAN INCENTIVES**

SEC. 2306. (a) Section 1842(b) of the Social Security Act is amended by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4)(A) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 15-month period beginning July 1, 1984, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983.

"(B) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 15-month period beginning July 1, 1984, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983.

"(C) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during periods beginning after September 30, 1985, the Secretary shall treat the level as set under subparagraph (A) as having fully provided for the economic changes which would have been taken into account but for the limitations contained in subparagraph (A).

"(D) In determining the customary charges for physicians' services furnished during the 12-month period beginning October 1, 1985, or October 1, 1986, by a physician who at no time for any services furnished during the 12-month period beginning October 1, 1984, was a participating physician (as defined in subsection (h)(1)), the Secretary shall not recognize increases in actual charges for services furnished during the 15-month period beginning on July 1, 1984, above the level of the physician's actual charges billed in the 3-month period ending on June 30, 1984."

(b)(1) Section 1842(b)(3) of such Act is amended—

(A) in subparagraph (F), by striking out "June 30" and inserting in lieu thereof "September 30";

(B) by striking out "July 1" each place it appears in the third and eighth sentences and inserting in lieu thereof in each instance "October 1"; and

(C) in the third sentence thereof, by striking out "during the last preceding calendar year elapsing prior to" and inserting in

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lieu thereof "during the 12-month period ending on the March 31 last preceding".

(2) The amendments made by paragraph (1) shall apply to items and services furnished on or after October 1, 1985.

(c) Section 1842 of such Act, as amended by section 2303(e) of this title, is amended by adding at the end thereof the following new subsections:

"(h)(1) Any physician or supplier may voluntarily enter into an agreement with the Secretary to become a participating physician or supplier. For purposes of this section, the term 'participating physician or supplier' means a physician or supplier (excluding any provider of services) who, before October 1 of any year beginning with 1984, enters into an agreement with the Secretary which provides that such physician or supplier will accept payment under this part on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1) for all items and services furnished to individuals enrolled under this part during the 12-month period beginning on October 1 of such year. In the case of a newly licensed physician or a physician who begins a practice in a new area, or in the case of a new supplier who begins a new business, or in such similar cases as the Secretary may specify, such physician or supplier may enter into such an agreement after October 1 of a year, for items and services furnished during the remainder of the 12-month period beginning on such October 1.

"(2) Each carrier having an agreement with the Secretary under subsection (a) shall maintain a toll-free telephone number or numbers at which individuals enrolled under this part may obtain the names, addresses, specialty, and telephone numbers of participating physicians and suppliers.

"(3) In any case in which a carrier having an agreement with the Secretary under subsection (a) is able to develop a system for the electronic transmission to such carrier of bills for services, such carrier shall establish direct lines for the electronic receipt of claims from participating physicians and suppliers.

"(i)(1) Each year the Secretary shall publish a list containing the name, address, specialty, and percent of claims submitted with respect to each physician and supplier during the preceding year that were paid on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1). The Secretary may limit such list to those physicians and suppliers who accepted such an assignment in a certain percentage of such physician's or supplier's billings or who provide at least a certain volume of services, as the Secretary may determine to be appropriate. Such list shall be organized by such geographical area as the Secretary determines, after consultation with carriers, would facilitate the use of such list by individuals enrolled under this part.

"(2) At the beginning of each fiscal year the Secretary shall publish a directory containing the name, address, and specialty of all participating physicians and suppliers (as defined in subsection (h)(1)) for that fiscal year. The directory shall be organized to make the most useful presentation of the information (as determined by the Secretary) for individuals enrolled under this part.

"(3) The Secretary shall promptly notify individuals enrolled under this part of the publication of such list and directory and shall make such list and directory available in each district and branch





office of the Social Security Administration, in the offices of carriers, and to senior citizen organizations.

"(4) The Secretary shall provide that the list and directory shall be available for purchase by the public.

"(j)(1) In the case of a physician who is not a participating physician, the Secretary shall monitor each such physician's actual charges to individuals enrolled under this part for physicians' services furnished during the 15-month period beginning July 1, 1984. If such physician knowingly and willfully bills individuals enrolled under this part for actual charges in excess of such physician's actual charges for the calendar quarter beginning on April 1, 1984, the Secretary may apply sanctions against such physician in accordance with paragraph (2).

"(2) Subject to paragraph (3), the sanctions which the Secretary may apply under paragraph (1) are—

"(A) barring a physician from participation under the program under this title for a period not to exceed 5 years, in accordance with the procedures of paragraphs (2) and (3) of section 1862(d), or

"(B) the imposition of civil monetary penalties and assessments, in the same manner as such penalties are authorized under section 1128A(a),

or both. No payment may be made under this title with respect to any item or service furnished by a physician during the period when he is barred from participation in the program under this title pursuant to this subsection.

"(3)(A) The Secretary may not bar a physician pursuant to paragraph (2)(A) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(B) The Secretary shall take into account access of beneficiaries to physicians' services for which payment may be made under this part in determining whether to bar a physician from participation under paragraph (2)(A).

"(4) The Secretary may, out of any civil monetary penalty or assessment collected from a physician pursuant to this subsection, make a payment to a beneficiary enrolled under this part in the nature of restitution for amounts paid by such beneficiary to such physician which was determined to be an excess charge under paragraph (1)."

(d)(1) During the 15-month period beginning July 1, 1984, the Secretary of Health and Human Services shall monitor physicians' services in order to determine any changes in the per capita volume and mix of physicians' services provided to beneficiaries under part B of title XVIII of the Social Security Act, classified by participating and nonparticipating physicians, by assigned and nonassigned claims, by specialty, and by geographic area.

(2) A report on changes monitored pursuant to paragraph (1) shall be provided to Congress prior to July 1, 1985.

(3) Such report shall include recommendations in sufficient detail to serve as the basis for legislative action which Congress can take to assure that any burden of effectively constraining the growth of costs in the medicare part B program, which Congress intends to be borne by providers and physicians, is not transferred (in whole or in part) so as to become an additional burden on part B beneficiaries in the form of increased out-of-pocket costs, reduced services, or reduced access to needed physician care.



(e) In addition to any funds otherwise provided for fiscal years 1984 and 1985 for payment to carriers under contracts entered into under section 1842 of the Social Security Act, there are transferred from the Federal Supplementary Medical Insurance Trust Fund, for payments to such carriers under such contracts to implement the amendments made by this section, not less than \$8,000,000 for fiscal year 1984, and not less than \$15,000,000 for fiscal year 1985.

(f)(1) Section 1128A(a)(2) of the Social Security Act is amended by inserting before the comma at the end thereof the following: ", or (C) an agreement to be a participating physician or supplier under section 1842(h)(1)".

(2) Section 1877(d) of such Act is amended—

(A) by inserting "or agrees to be a participating physician or supplier under section 1842(h)(1)" after "1842(b)(3)(B)(ii)", and

(B) by striking out "specified in subclause (I) of such section" and inserting in lieu thereof "or agreement".

#### PAYMENT FOR SERVICES OF TEACHING PHYSICIANS

SEC. 2307. (a)(1) Subparagraph (A) of section 1842(b)(7)(A) of the Social Security Act (as redesignated by section 2306 of this title) is amended by adding at the end the following sentence: "If all the teaching physicians in a hospital agree to have payment made for all of their physicians' services under this part furnished patients in the hospital on the basis of an assignment described in paragraph (3)(B)(ii) or under the procedure described in section 1870(f)(1), notwithstanding clause (ii) of this subparagraph, the carrier shall provide for payment in an amount equal to 90 percent of the prevailing charges paid for similar services in the same locality." *Amend  
windward  
provision*

(2) Section 1842(b)(7)(B) of such Act is amended—

(A) by striking out "physician who has a substantial practice outside the teaching setting" in clause (i) and inserting in lieu thereof "physician who is not a teaching physician (as defined by the Secretary)";

(B) by striking out "outside practice" in clause (i) and inserting in lieu thereof "practice outside the teaching setting";

(C) by striking out "In the case of a physician who does not have a practice described in clause (i)" in clause (ii) and inserting in lieu thereof "In the case of a teaching physician";

(D) by striking out "greater" in clause (ii) and inserting in lieu thereof "greatest";

(E) by striking out "or." at the end of subclause (I) of clause (ii);

(F) by striking out the period at the end of subclause (II) of clause (ii) and inserting in lieu thereof ", or"; and

(G) by adding at the end of clause (ii) the following new subclause:

"(III) 85 percent of the prevailing charges paid for similar services in the same locality."

(3) The amendments made by this subsection shall apply to services furnished on or after July 1, 1984.

(b)(1) Section 1886(d)(5)(B) of the Social Security Act is amended by adding at the end thereof the following new sentence: "In determining such adjustment the Secretary shall not distinguish between those interns and residents who are employees of a hospital and those interns and residents who furnish services to a hospital but are not employees of such hospital."





(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1984.

(c) The Comptroller General shall conduct a study of the amounts billed for physician services and paid by carriers under section 1842(b)(7) of the Social Security Act to determine whether such payments have been made only where the physician satisfies the requirements of section 1842(b)(7)(A)(i) of such Act. The Comptroller General shall submit to the Committees on Ways and Means and on Energy and Commerce of the House of Representatives and to the Committee on Finance of the Senate a report on the results of such study not later than 18 months after the date of the enactment of this Act.

LESSER OF COST OR CHARGES

SEC. 2308. (a) The Secretary of Health and Human Services shall issue regulations which require, for purposes of title XVIII of the Social Security Act, that providers of services calculate and report the lesser-of-cost-or-charges determinations separately with respect to payments for services under part A and services under part B of such title (other than clinical diagnostic laboratory tests paid under section 1833(h)), and that payment under such title be based upon such separate determinations. Such regulations shall apply to cost reporting periods beginning on or after October 1, 1984.

(b)(1) For purposes of applying the nominality test under sections 1814(b)(2) and 1833(a)(2)(B)(ii) of the Social Security Act, the Secretary shall, in addition to those rules for establishing nominality which the Secretary determines to be appropriate, provide that charges representing 60 percent or less of costs shall be considered nominal. The charges used in making such determinations shall be the charges actually billed to charge-paying patients who are not entitled to benefits under either part of such title. Such determination shall be made separately with respect to payments for services under part A and services under part B of such title (other than clinical diagnostic laboratory tests paid under section 1833(h)), or on the basis of inpatient and outpatient services, except that the determination need not be made separately for home health services if the Secretary finds that such separation is not appropriate.

(2)(A) Section 1814(b)(2) of such Act is amended by inserting after "public provider of services" the following: ", or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this paragraph),".

(B) Section 1833(a)(2)(B)(ii) of such Act is amended by inserting after "public provider of services" the following: ", or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause),".

STUDY OF MEDICARE PART B PAYMENTS

SEC. 2309. (a)(1) The Director of the Office of Technology Assessment shall conduct a study of physician reimbursement under the medicare program and report to Congress on such study not later than December 31, 1985. The report shall include specific findings and recommendations on methods by which payment amounts and other program policies under part B of title XVIII of the Social Security Act may be modified—

*see  
1886(d) as  
amended by  
2315(b)*



(A) to eliminate inequities in the relative amounts paid to physicians by type of service, locality, and specialty, with particular attention to any inequities between cognitive services and medical procedures; and

(B) to increase incentives for physicians and other suppliers under such part to accept assignment for services covered under title XVIII of the Social Security Act.

The study shall also examine the influence of payment methodology and payment levels on the utilization of services.

(2) In carrying out the study under paragraph (1)(A), the Director shall take into account the relative time, complexity, investment in professional training, and overhead expenses necessary to the provision of various medical services and procedures, as well as the influence of the changes in technology.

(3) The report under paragraph (1)(A) shall include information on methodologies which could be applied in the development of fee schedules on a national or regional basis for payments under part B of title XVIII of the Social Security Act in a manner consistent with the findings of the study under this subsection.

(4) In preparing the report and recommendations, the Director shall consult with the Secretary of Health and Human Services and, as appropriate, with national organizations of physicians and other interested associations and individuals.

(b) In order to assist the Director in completing the study and to facilitate Congressional review, the Secretary of Health and Human Services shall compile a centralized medicare part B charge data base, utilizing information gathered by the medicare carriers for charges in 1983. Such data shall include information, by procedure, on—

- (1) utilization,
- (2) assignment rates of physicians and suppliers,
- (3) actual, customary, and prevailing charges, and
- (4) the differences in charges by physician specialty and locality.

Such information shall be provided to the Director of the Office of Technology Assessment.

(c) The Secretary shall review the report submitted under subsection (a)(1) and shall report to the Congress his comments on the report and recommendations for legislative amendments.

#### LIMITATION ON INCREASE IN HOSPITAL COSTS PER CASE

SEC. 2310. (a) Section 1886(b)(3)(B) of the Social Security Act is amended—

(1) by striking out "1 percentage point", and by inserting in lieu thereof "one-quarter of 1 percentage point", and

(2) by adding at the end thereof the following: "In determining a percentage change under subsection (e)(4) with respect to discharges occurring in any cost reporting period or fiscal year beginning on or after October 1, 1985, and before October 1, 1986, the Secretary may not establish a percentage increase which exceeds the applicable percentage increase otherwise determined for that period or fiscal year under the preceding sentence."

(b) The amendments made by this section shall apply to cost reporting periods beginning in, and discharges occurring in, fiscal year 1985 and thereafter.





CLASSIFICATION OF CERTAIN RURAL HOSPITALS

SEC. 2311. (a) Section 1886(d)(5)(C)(i) of the Social Security Act is amended by adding at the end thereof the following: "A hospital which is classified as a rural hospital may appeal to the Secretary to be classified as a rural referral center under this clause on the basis of criteria (established by the Secretary) which shall allow the hospital to demonstrate that it should be so reclassified by reason of certain of its operating characteristics being similar to those of a typical urban hospital located in the same census region. Such characteristics may include wages, scope of services, service area, and the mix of medical specialties. The Secretary shall publish the criteria not later than 30 days after the date of the enactment of this Act, for implementation by October 1, 1984. An appeal allowed under this clause must be submitted to the Secretary (in such form and manner as the Secretary may prescribe) during the quarter before the first quarter of the hospital's cost reporting period (or, in the case of a cost reporting period beginning during October 1984, during the first quarter of that period), and the Secretary must make a final determination with respect to such appeal within 60 days after the date the appeal was submitted. Any payment adjustments necessitated by a reclassification based upon the appeal shall be effective at the beginning of such cost reporting period."

(b) Section 1886(d)(2)(D) of such Act is amended by adding at the end thereof the following: "A hospital located in a Metropolitan Statistical Area shall be deemed to be located in the region in which the largest number of the hospitals in the same Metropolitan Statistical Area are located, or, at the option of the Secretary, the region in which the majority of the inpatient discharges (with respect to which payments are made under this title) from hospitals in the same Metropolitan Statistical Area are made."

(c) Section 1886(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) In the case of any hospital which is located in an area which is, at any time after April 20, 1983, reclassified from an urban to a rural area, payments to such hospital for the first two cost reporting periods for which such reclassification is effective shall be made as follows:

"(A) For the first such cost reporting period, payment shall be equal to the amount payable to such hospital for such reporting period on the basis of the rural classification, plus an amount equal to two-thirds of the amount (if any) by which—

"(i) the amount which would have been payable to such hospital for such reporting period on the basis of an urban classification, exceeds

"(ii) the amount payable to such hospital for such reporting period on the basis of the rural classification.

"(B) For the second such cost reporting period, payment shall be equal to the amount payable to such hospital for such reporting period on the basis of the rural classification, plus an amount equal to one-third of the amount (if any) by which—

"(i) the amount which would have been payable to such hospital for such reporting period on the basis of an urban classification, exceeds

"(ii) the amount payable to such hospital for such reporting period on the basis of the rural classification."



(d)(1) Except as provided in paragraph (2), the amendments made by subsections (b) and (c) shall be effective with respect to cost reporting periods beginning on or after October 1, 1983, and the amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after October 1, 1984.

(2) The amendment made by subsection (b) shall not apply so as to reduce any payment under section 1886(d) of the Social Security Act to a hospital the region of which is deemed to be changed pursuant to such amendment for discharges occurring in any cost reporting period beginning before October 1, 1984.

(e) The Secretary of Health and Human Services shall conduct a study of the distinction between urban and rural hospitals for purposes of the DRG payment provisions under section 1886(d) of the Social Security Act, and the effect which such distinction may have on rural hospitals in the case of those DRG's which have high fixed nonlabor components which do not vary significantly between urban and rural areas (such as those DRG's which involve expensive medical devices). The Secretary also shall conduct a study of the advisability and feasibility of varying by DRG the proportions of the labor and nonlabor components of the Federal payment amount instead of applying the average proportion of those components to all DRG's. The Secretary shall report the results of such studies to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives within six months after the date of the enactment of this Act.

(f) The Secretary of Health and Human Services shall conduct a study of further refinements which may be appropriate in the inpatient hospital prospective payment provisions of title XVIII of the Social Security Act, in order to address the problems of differences in payment amounts to specific hospitals. The study shall include (but shall not be limited to) the degree of variation in inpatient hospital costs per discharge within each diagnosis-related group. The Secretary shall also present alternative methods of computing the amount of such payments. The study shall include a discussion of the relative merits of a method of payment under which a percentage of the payment amount (for discharges classified within a diagnosis-related group) could be determined on a regional basis. The Secretary shall report the result of the study, and any recommended changes in the prospective payment system, to the Congress prior to September 1, 1984.

#### PAYMENT FOR SERVICES OF A NURSE ANESTHETIST

SEC. 2312. (a) Section 1886(d)(5) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(E) The Secretary shall provide for an additional payment amount for any subsection (d) hospital equal to the reasonable costs incurred by such hospital for anesthesia services provided by a certified registered nurse anesthetist. Payment under this subparagraph shall be the only payment made to such hospital with respect to such services."

(b) The second sentence of section 1886(a)(4) of such Act is amended by inserting ", costs of anesthesia services provided by a certified registered nurse anesthetist" after "approved educational activities".





(c) The amendments made by subsections (a) and (b) shall apply to cost reporting periods beginning on or after October 1, 1984, and before October 1, 1987.

(d) The Secretary of Health and Human Services shall conduct a study of possible methods of reimbursement under title XVIII of the Social Security Act which would not discourage the use of certified registered nurse anesthetists by hospitals. The Secretary shall report the results of such study to the Congress as soon as is practicable.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SEC. 2313. (a) Section 1886(e)(2) of the Social Security Act is amended by inserting "(without regard to the provisions of title 5, United States Code, governing appointments in the competitive service)" after "appointed by the Director".

(b)(1) Section 1886(e)(6)(C)(i) of such Act is amended to read as follows:

"(i) employ and fix the compensation of an Executive Director (subject to the approval of the Director of the Office) and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);"

(2) Section 1886(e)(6)(C)(iii) of such Act is amended by inserting "(without regard to section 3709 of the Revised Statutes (41 U.S.C. 5))" after "Commission".

(3) Section 1886(e)(6)(C) of such Act is amended by adding at the end the following: "Section 10(a)(1) of the Federal Advisory Committee Act shall not apply to any portion of a Commission meeting if the Commission, by majority vote, determines that such portion of such meeting should be closed."

(4) Section 1886(e)(6)(D) of such Act is amended by adding at the end thereof the following sentence: "Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority."

(c) Section 1862 of such Act, as amended by section 2304(c) of this title, is amended by adding at the end the following new subsection.

"(i) In order to supplement the activities of the Prospective Payment Assessment Commission under section 1886(e) in assessing the safety, efficacy, and cost-effectiveness of new and existing medical procedures, the Secretary may carry out, or award grants or contracts for, original research and experimentation of the type described in clause (ii) of section 1886(e)(6)(E) with respect to such a procedure if the Secretary finds that—

"(1) such procedure is not of sufficient commercial value to justify research and experimentation by a commercial organization;

"(2) research and experimentation with respect to such procedure is not of a type that may appropriately be carried out by an institute, division, or bureau of the National Institutes of Health; and



“(3) such procedure has the potential to be more cost-effective in the treatment of a condition than procedures currently in use with respect to such condition.”.

(d) Section 1886(e)(6) of such Act is amended by adding at the end the following new subparagraph:

“(J) The Commission shall submit requests for appropriations in the same manner as the Office submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Office.”.

(e) The amendments made by this section shall become effective on the date of the enactment of this Act.

#### REVALUATION OF ASSETS

SEC. 2314. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

“(O)(i) In establishing an appropriate allowance for depreciation and for interest on capital indebtedness and (if applicable) a return on equity capital with respect to an asset of a hospital or skilled nursing facility which has undergone a change of ownership, such regulations shall provide that the valuation of the asset after such change of ownership shall be the lesser of the allowable acquisition cost of such asset to the owner of record as of the date of the enactment of this subparagraph (or, in the case of an asset not in existence as of such date, the first owner of record of the asset after such date), or the acquisition cost of such asset to the new owner.

“(ii) Such regulations shall provide for recapture of depreciation in the same manner as provided under the regulations in effect on June 1, 1984.

“(iii) Such regulations shall not recognize, as reasonable in the provision of health care services, costs (including legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) for which any payment has previously been made under this title.”.

(b) Section 1902(a)(13) of such Act is amended—

- (1) by striking out “and” at the end of subparagraph (A),
- (2) by redesignating subparagraph (B) as subparagraph (C),

and

(3) by inserting after subparagraph (A) the following new subparagraph:

“(B) that the State shall provide assurances satisfactory to the Secretary that the payment methodology utilized by the State for payments to hospitals, skilled nursing facilities, and intermediate care facilities can reasonably be expected not to increase such payments, solely as a result of a change of ownership, in excess of the increase which would result from the application of section 1861(v)(1)(O); and”.

(c)(1) Clause (i) of section 1861(v)(1)(O) of the Social Security Act shall not apply to changes of ownership of assets pursuant to an enforceable agreement entered into before the date of the enactment of this Act.

(2) Clause (iii) of section 1861(v)(1)(O) of such Act shall apply to costs incurred on or after the date of the enactment of this Act.





(3)(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to medical assistance furnished on or after October 1, 1984.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

TECHNICAL AMENDMENTS RELATING TO THE DRG PAYMENT SYSTEM

SEC. 2315. (a) Section 1886(c)(4)(A) of the Social Security Act is amended by striking out "and (D)" and inserting in lieu thereof "(D), and (E)".

(b) Section 1886(d)(2)(D) of such Act is amended by striking out "Standard".

(c) Section 1886(e)(5) of such Act is amended—

(1) by striking out "for public comment" in the matter before subparagraph (A), and

(2) by inserting "for public comment" in subparagraph (A) after "that fiscal year".

(d) Section 1866(a)(1)(F) of such Act (as added by section 602(f)(1)(C) of the Social Security Amendments of 1983) is amended by striking out "(c) or (d)" and inserting in lieu thereof "(b), (c), or (d)".

(e) Section 1818(c) of such Act is amended by striking out "subsection (a) of section 1839" and inserting in lieu thereof "subsection (b) of section 1839".

(f)(1) Section 604(c)(3) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "to implement subsection (d) of section 1886 of the Social Security Act (as so amended)" and inserting in lieu thereof "to implement the amendments made by this title".

(2) Notwithstanding section 604(c) of the Social Security Amendments of 1983, the Secretary of Health and Human Services shall cause to be published in the Federal Register proposed regulations to carry out subsection (c) of section 1886 of the Social Security Act not later than July 1, 1984, and allow for a period of 45 days for public comment thereon. After consideration of the comments received, the Secretary shall cause to be published in the Federal Register final regulations to carry out such subsection not later than October 1, 1984.

(g) The amendments made by this section shall be effective as though they had been included in the enactment of the Social Security Amendments of 1983 (Public Law 98-21).

(h) The Secretary of Health and Human Services shall, prior to December 31, 1984—

(1) develop and publish a definition of "hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A" of title XVIII of the Social Security Act for purposes of section 1886(d)(5)(C)(i) of that Act, and



(2) identify those hospitals which meet such definition, and make such identity available to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PROSPECTIVE PAYMENT WAGE INDEX

SEC. 2316. (a) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall conduct a study to develop an appropriate index for purposes of adjusting payment amounts under section 1886(d) of the Social Security Act to reflect area differences in average hospital wage levels, as required under paragraphs (2)(H) and (3)(E) of such section, taking into account wage differences of full time and part time workers. The Secretary of Health and Human Services shall report the results of such study to the Congress not later than 30 days after the date of the enactment of this Act, including any changes which the Secretary determines to be necessary to provide for an appropriate index.

(b) The Secretary shall adjust the payment amounts for hospitals for cost reporting periods beginning on or after October 1, 1983, to reflect any changes made in the wage index pursuant to subsection (a). Any adjustment in such payments to take account of overpayments or underpayments for the first cost reporting period of a hospital to which section 1886(d) of the Social Security Act applies, shall be made by decreasing or increasing payments in the succeeding cost reporting period.

(c) The Secretary shall conduct a study and report to the Congress on proposed criteria under which, in the case of a hospital that demonstrates to the Secretary in a current fiscal year that the adjustment being made under paragraph (2)(H) or (3)(E) of section 1886(d) of the Social Security Act for that hospital's discharges in that fiscal year does not accurately reflect the wage levels in the labor market serving the hospital, the Secretary, to the extent he deems appropriate, would modify such adjustment for that hospital for discharges in the subsequent fiscal year to take into account a difference in payment amounts in that current fiscal year to the hospital that resulted from such inaccuracy.

DEADLINE FOR REPORT ON INCLUDING PAYMENT FOR PHYSICIANS'  
SERVICES TO HOSPITAL INPATIENTS IN DRG PAYMENT AMOUNTS

SEC. 2317. The second sentence of section 603(a)(2)(B) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "include, in a report to Congress in 1985," and inserting in lieu thereof "submit to Congress, not later than July 1, 1985, a report to Congress which includes".

EMERGENCY ROOM SERVICES

SEC. 2318. (a) Section 1861(v)(1)(K) of the Social Security Act is amended by inserting "(i)" after "(K)" and by adding at the end thereof the following new clause:

"(ii) For purposes of clause (i), the term 'bona fide emergency services' means services provided in a hospital emergency room after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—





"(I) placing the patient's health in serious jeopardy;

"(II) serious impairment to bodily functions; or

"(III) serious dysfunction of any bodily organ or part."

(b) Section 1861(v)(1)(K)(i) of such Act as so designated is amended by striking out "provided in an emergency room" and inserting in lieu thereof "as defined in clause (ii)".

(c) The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

#### SKILLED NURSING FACILITY REIMBURSEMENT

SEC. 2319. (a)(1) Section 1861(v)(1)(E) of the Social Security Act is amended by striking out clause (i) thereof, and by striking out "(ii)".

(2) Section 1861(v)(7) of such Act is amended by adding at the end thereof the following new subparagraph:

"(D) For further limitations on reasonable cost and determination of payment amounts for routine service costs of skilled nursing facilities, see section 1888."

(b) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

#### "PAYMENT TO SKILLED NURSING FACILITIES FOR ROUTINE SERVICE COSTS

"SEC. 1888. (a) The Secretary, in determining the amount of the payments which may be made under this title with respect to routine service costs of extended care services shall not recognize as reasonable (in the efficient delivery of health services) per diem costs of such services to the extent that such per diem costs exceed the following per diem limits, except as otherwise provided in this section:

"(1) With respect to freestanding skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine service costs for freestanding skilled nursing facilities located in urban areas.

"(2) With respect to freestanding skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine service costs for freestanding skilled nursing facilities located in rural areas.

"(3) With respect to hospital-based skilled nursing facilities located in urban areas, the limit shall be equal to the sum of the limit for freestanding skilled nursing facilities located in urban areas, plus 50 percent of the amount by which 112 percent of the mean per diem routine service costs for hospital-based skilled nursing facilities located in urban areas exceeds the limit for freestanding skilled nursing facilities located in urban areas.

"(4) With respect to hospital-based skilled nursing facilities located in rural areas, the limit shall be equal to the sum of the limit for freestanding skilled nursing facilities located in rural areas, plus 50 percent of the amount by which 112 percent of the mean per diem routine service costs for hospital-based skilled nursing facilities located in rural areas exceeds the limit for freestanding skilled nursing facilities located in rural areas.

In applying this subsection the Secretary shall make appropriate adjustments to the labor related portion of the costs based upon an appropriate wage index.



“(b) With respect to a hospital-based skilled nursing facility, the Secretary shall recognize as reasonable the portion of the cost differences between hospital-based and freestanding skilled nursing facilities attributable to excess overhead allocations (as determined by the Secretary) resulting from the reimbursement principles under this title, notwithstanding the limits set forth in paragraph (3) or (4) of subsection (a).

“(c) The Secretary may make adjustments in the limits set forth in subsection (a) with respect to any skilled nursing facility to the extent the Secretary deems appropriate, based upon case mix or circumstances beyond the control of the facility.”.

(c) The amendments made by subsections (a) and (b) shall apply to cost reporting periods beginning on or after July 1, 1984.

(d) Notwithstanding limits on the cost of skilled nursing facilities which may have been issued under section 1861(v) of the Social Security Act prior to the date of the enactment of this Act, in the case of cost reporting periods beginning on or after October 1, 1982, and prior to July 1, 1984, the cost limits for routine services for urban and rural hospital-based skilled nursing facilities shall be 112 percent of the mean of the respective routine costs for urban and rural hospital-based skilled nursing facilities.

(e) The Secretary of Health and Human Services shall submit to the Congress, prior to December 1, 1984, the report required under section 605(b) of the Social Security Amendments of 1983.

(f)(1) The Secretary of Health and Human Services shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives; prior to August 1, 1984, the proposals developed, as required under section 1135(c) of the Social Security Act, for prospective reimbursement of skilled nursing facilities.

(2) The Secretary of Health and Human Services shall submit to the Congress, prior to December 1, 1984, a report on the range of options for prospective payment of skilled nursing facilities under title XVIII of the Social Security Act. The report shall take into account case mix differences among skilled nursing facilities. The report shall analyze the feasibility of permitting inclusion of payments to hospital-based facilities within the DRG payment system under section 1886(d) of such Act.

**PAYMENT FOR COSTS OF HOSPITAL-BASED MOBILE INTENSIVE CARE  
UNITS.**

SEC. 2320. (a)(1) In the case of a project described in subsection (b), the Secretary of Health and Human Services shall provide, except as provided in paragraph (2), that the amount of payments to hospitals covered under the project during the period described in paragraph (3) shall include payments for their operation of hospital-based mobile intensive care units (as defined by State statute) if the State provides satisfactory assurances that the total amount of payments to such hospitals under titles XVIII and XIX of the Social Security Act under the demonstration project (including any such additional amount of payment) would not exceed the total amount of payments which would have been paid under such titles if the demonstration project were not in effect.

(2) Paragraph (1) shall not apply if the State in which the project is located notifies the Secretary, within 30 days after the date of the





enactment of this section, that the State does not want paragraph (1) to apply to that project.

(3) The period referred to in paragraph (1) begins on the date of the enactment of this section and continues so long as the Secretary continues the Statewide waiver referred to in subsection (b), but in no case ends earlier than 90 days after the date final regulations to implement section 1886(c) of the Social Security Act are published.

(b) The project referred to in subsection (a) is the statewide demonstration project established in the State of New Jersey under section 402 of the Social Security Amendments of 1967, as amended by section 222(b) of the Social Security Amendments of 1972 (Public Law 92-603), which project provides for payments to hospitals in the State on a prospective basis and related to a classification of patients by diagnosis-related groups.

(c) Payment for services described in this section shall be considered to be payments for services under part A of title XVIII of the Social Security Act.

**COST SHARING FOR DURABLE MEDICAL EQUIPMENT FURNISHED AS A  
HOME HEALTH BENEFIT**

SEC. 2321. (a)(1) The matter in section 1814(b) of the Social Security Act preceding paragraph (1) is amended by inserting "and other than a home health agency with respect to durable medical equipment" after "hospice care".

(2) Section 1814 of such Act is amended by adding at the end thereof the following new subsection:

**"Payments to Home Health Agencies for Durable Medical  
Equipment**

"(k) The amount paid to any home health agency with respect to durable medical equipment for which payment may be made under this part shall be—

"(1) the lesser of—

"(A) the reasonable cost of such equipment, as determined under section 1861(v), or

"(B) the customary charges with respect to such equipment,

less the amount the home health agency may charge as described in section 1866(a)(2)(A)(ii), but in no case may the payment for such equipment exceed 80 percent of such reasonable cost, or

"(2) if such equipment is furnished by a public home health agency free of charge or at nominal charge to the public, the amount which the Secretary finds will provide fair compensation to the home health agency."

(b)(1) The matter in section 1833(a)(2)(A) of such Act preceding clause (i) is amended by inserting "(other than durable medical equipment)" after "home health services".

(2) The matter in section 1833(a)(2)(B) of such Act preceding clause (i) is amended by inserting "items and" after "other".

(c) Section 1866(a)(2)(A)(ii) of such Act is amended by inserting "or which are durable medical equipment furnished as home health services" after "part B".

(d)(1) The first sentence of section 1833(f)(1) of such Act is amended by striking out "as described in section 1861(s)(6)".



(2) Section 1833(f)(2) of such Act is amended—

(A) by striking out “the 20 percent” and inserting in lieu thereof “any”, and

(B) by striking out “under subsection (a)”.

(3) Section 1833(f)(3) of such Act is amended by striking out “paragraph (1)” and inserting in lieu thereof “subsection (a)”.

(4)(A) Subsection (f) of section 1833 of such Act is redesignated as section 1889, is assigned the heading “PURCHASE OF DURABLE MEDICAL EQUIPMENT”, and is moved to and inserted at the end of part C after the section added by section 2319 of this title.

(B) Paragraphs (1) through (4) of such section 1889 are redesignated as subsections (a) through (d), respectively.

(e)(1) Section 1861(m)(5) of such Act is amended by striking out “, and the use of medical appliances” and inserting in lieu thereof “and durable medical equipment”.

(2) Section 1861(s)(6) of such Act is amended by striking out everything after “durable medical equipment” up to the semicolon:

(3) Section 1861 of such Act is amended by inserting after subsection (m) the following:

#### “Durable Medical Equipment

“(n) The term ‘durable medical equipment’ includes iron lungs, oxygen tents, hospital beds, and wheelchairs (which may include a power-operated vehicle that may be appropriately used as a wheelchair, but only where the use of such a vehicle is determined to be necessary on the basis of the individual’s medical and physical condition and the vehicle meets such safety requirements as the Secretary may prescribe) used in the patient’s home (including an institution used at his home other than an institution that meets the requirements of subsection (e)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased.”.

(4) Section 1861(cc)(1)(G) of such Act is amended by striking out “, appliances, and equipment, including the purchase or rental of equipment” and inserting in lieu thereof “and durable medical equipment”.

(f) Section 1814(j)(2) of such Act is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and

(2) by inserting the following after subparagraph (A):

“(B) Subsection (k)(1)(B).”.

(g) The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

#### SERVICES OF A CLINICAL PSYCHOLOGIST PROVIDED TO MEMBERS OF AN HMO

SEC. 2322. (a) Section 1861(s)(2)(H) of the Social Security Act is amended by inserting “(i)” after “(H)”, by adding “and” at the end of clause (i) as so designated, and by adding at the end thereof the following new clause:

“(ii) services furnished pursuant to a risk-sharing contract under section 1876(g) to a member of an eligible organization by a clinical psychologist (as defined by the Secretary), and such services and supplies furnished as an incident to his services to such a member as would otherwise be covered under this part if





furnished by a physician or as an incident to a physician's service; and".

(b) The amendments made by subsection (a) shall be effective with respect to services furnished on or after the date of the enactment of this Act.

COVERAGE OF ADMINISTRATION OF HEPATITIS B VACCINE

SEC. 2323. (a) Section 1861(s)(10) of the Social Security Act is amended—

(1) by inserting "(A)" after "(10)";

(2) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) hepatitis B vaccine and its administration, furnished to an individual who is at high or intermediate risk of contracting hepatitis B (as determined by the Secretary under regulations)."

(b)(1) Paragraphs (1)(B), (2)(A), and (3) of section 1833(a) of such Act are each amended by striking out "1861(s)(10)" and inserting in lieu thereof "1861(s)(10)(A)".

(2) Section 1833(b)(1) of such Act is amended by striking out "1861(s)(10)" and inserting in lieu thereof "1861(s)(10)(A)".

(3) The last sentence of section 1866(a)(2)(A) of such Act is amended by striking out "1861(s)(10)" and inserting in lieu thereof "1861(s)(10)(A)".

(4) Section 1833 of such Act is amended by adding at the end thereof the following new subsection:

"(k) With respect to services described in section 1861(s)(10)(B), the Secretary may provide, instead of the amount of payment otherwise provided under this part, for payment of such an amount or amounts as reasonably reflects the general cost of efficiently providing such services."

(c) Section 1881(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(11) Hepatitis B vaccine and its administration, when provided to a patient determined to have end stage renal disease, shall not be included as dialysis services for purposes of payment under any prospective payment amount or comprehensive fee established under this section. Payment for such vaccine and its administration shall be made separately in accordance with section 1833."

(d) The amendments made by this section apply to services furnished on or after September 1, 1984.

(e) The Secretary shall monitor the provision of hepatitis B vaccine under part B of title XVIII of the Social Security Act, and shall review any changes in medical technology which may have an effect on the amounts which should be paid for such service.

COVERAGE OF HEMOPHILIA CLOTTING FACTOR

SEC. 2324. (a) Section 1861(s)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (G) and by adding at the end thereof the following new subparagraph:

"(I) blood clotting factors, for hemophilia patients competent to use such factors to control bleeding without medical or other



supervision, and items related to the administration of such factors, subject to utilization controls deemed necessary by the Secretary for the efficient use of such factors;”.

(b) The amendments made by subsection (a) shall be effective with respect to items and services purchased on or after the date of the enactment of this Act.

#### PAYMENT FOR DEBRIDEMENT OF MYCOTIC TOENAILS

SEC. 2325. The Secretary shall provide, pursuant to section 1862(a) of the Social Security Act, that payment will not be made under part B of title XVIII of such Act for a physician's debridement of mycotic toenails to the extent such debridement is performed for a patient more frequently than once every 60 days, unless the medical necessity for more frequent treatment is documented by the billing physician.

#### CONTRACTS FOR MEDICARE CLAIMS PROCESSING

SEC. 2326. (a) During each of the fiscal years 1985 and 1986, the Secretary of Health and Human Services may enter into not more than two agreements under section 1816 of the Social Security Act, and not more than two contracts under section 1842 of such Act, on the basis of competitive bidding, without regard to the nominating process under section 1816(a) of such Act during the term of the agreement. Such procedure may be used only for the purpose of replacing an agency or organization or carrier which over a period of time has been in the lowest 20th percentile of agencies and organizations or carriers having agreements or contracts under the respective section, as measured by the Secretary's cost and performance criteria. Any agency or organization or carrier selected on the basis of competitive bidding must perform all of the duties listed in section 1816(a)(1) of such Act, or the duties listed in paragraphs (1) through (4) of section 1842(a) of such Act, as the case may be, and must be a health insuring organization (as determined by the Secretary).

(b) Section 1816(e)(4) of the Social Security Act is amended by adding at the end thereof the following new sentence: “By not later than July 1, 1987, the Secretary shall limit the number of such regional agencies or organizations to not more than ten.”.

(c)(1) Section 1816(f) of such Act is amended by striking out “, by regulation,” in clause (2), and by adding at the end thereof the following: “Such standards and criteria shall be published in the Federal Register, and opportunity shall be provided for public comment prior to implementation.”.

(2) Section 1842(b)(2) of such Act is amended by adding at the end thereof the following new sentence: “The Secretary shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this section, and opportunity shall be provided for public comment prior to implementation.”.

(d)(1) Section 1816(c) of such Act is amended by adding at the end the following new sentence: “The Secretary shall provide that in determining the necessary and proper cost of administration, the Secretary shall, with respect to each agreement, take into account the amount that is reasonable and adequate to meet the costs which





must be incurred by an efficiently and economically operated agency or organization in carrying out the terms of its agreement.”.

(2) Section 1842(c) of such Act is amended by adding at the end the following new sentence: “The Secretary shall provide that in determining a carrier’s necessary and proper cost of administration, the Secretary shall, with respect to each contract, take into account the amount that is reasonable and adequate to meet the costs which must be incurred by an efficiently and economically operated carrier in carrying out the terms of its contract.”.

(3) The amendments made by this subsection shall apply to agreements and contracts entered into or renewed after September 30, 1984.

(e)(1) The Comptroller General shall conduct a study on—

(A) the ability of the Administrator of the Health Care Financing Administration to manage competitive bidding for agreements and contracts under sections 1816 and 1842 of the Social Security Act, and on the relative costs and efficiency of such competitive agreements and contracts as compared to current cost reimbursement for such agreements and contracts;

(B) the need (if any) for eliminating the provider nomination procedure under section 1816(a) of such Act;

(C) the disparities (if any) in costs and quality of claims processing among the various entities performing claims processing pursuant to sections 1816 and 1842 of such Act;

(D) whether the standards of the Secretary of Health and Human Services for evaluating costs and performance of intermediaries and carriers are adequate and properly applied; and

(E) whether the Secretary’s statutory authority is sufficient to deal with inefficient intermediaries and carriers either through the contract negotiation and budget review process or through the process for termination or nonrenewal of contracts.

(2) The Comptroller General shall submit a report on the results of such study to the Congress not later than 12 months after the date of the enactment of this Act.

## PART II—ADMINISTRATIVE AND MISCELLANEOUS CHANGES

### REPEAL OF EXCLUSION OF FOR-PROFIT ORGANIZATIONS FROM RESEARCH AND DEMONSTRATION GRANTS

SEC. 2331. (a) Section 1110(a)(1) of the Social Security Act is amended by striking out “nonprofit”.

(b) The first sentence of section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248) is amended by striking out “nonprofit”.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

### PRESIDENTIAL APPOINTMENT OF AND PAY LEVEL FOR THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

SEC. 2332. (a) Title XI of the Social Security Act is amended by inserting after section 1116 the following new section:



**"APPOINTMENT OF THE ADMINISTRATOR OF THE HEALTH CARE  
FINANCING ADMINISTRATION**

"SEC. 1117. The Administrator of the Health Care Financing Administration shall be appointed by the President by and with the advice and consent of the Senate."

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Administrator of the Health Care Financing Administration."

(c) The amendments made by this section shall apply to appointments made after the date of the enactment of this Act.

**EXCLUSION OF CERTAIN ENTITIES OWNED OR CONTROLLED BY  
INDIVIDUALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES**

SEC. 2333. (a) Section 1128 of the Social Security Act is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and

(2) by inserting after subsection (a) the following new subsection:

"(b) Whenever the Secretary determines, with respect to an entity, that a person who has a direct or indirect ownership or control interest of 5 percent or more in the entity, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such entity, is a person described in section 1126(a), the Secretary—

"(1) may bar from participation in the program under title XVIII, for such period as he may deem appropriate, each such entity otherwise eligible to participate in such program;

"(2) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX of the fact and circumstances of the determination, and may require each such agency to bar the entity from participation under the State plan for such period as he specifies, which may not exceed the period established pursuant to paragraph (1); and

"(3) shall promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such entity of the fact and circumstances of such determination, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to such request."

(b) Section 1128(e) of such Act (as redesignated by subsection (a)(1)) is amended—

(1) by inserting "or entity" after "Any person", and

(2) by striking out "(a) or (b)" and inserting in lieu thereof "(a), (b), or (c)".

(c) The amendments made by this section become effective on the date of the enactment of this Act and shall apply to convictions of persons occurring after such date.





PROVIDER REPRESENTATION IN PEER REVIEW ORGANIZATIONS

SEC. 2334. (a) Section 1153(b)(3) of the Social Security Act is amended by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) For purposes of subparagraph (A), an entity shall not be considered to be affiliated with a health care facility or association of facilities by reason of management, ownership, or common control if the management, ownership, or common control consists only of not more than 20 percent of the members of the governing board of the entity being affiliated (through management, ownership, or common control) with one or more of such facilities or associations."

(b) Section 1153(b)(2)(A) of such Act is amended—

(1) by striking out "an entity which directly" and inserting in lieu thereof "an entity (other than a self-insured employer) which directly"; and

(2) by adding at the end thereof the following new sentence: "For purposes of this paragraph, an entity shall not be considered to be affiliated with another entity which makes payments (directly or indirectly) to any practitioner or provider, by reason of management, ownership, or common control, if the management, ownership, or common control consists only of one individual member of the governing board being affiliated (through management, ownership, or common control) with a health maintenance organization or competitive medical plan which is an 'eligible organization' as defined in section 1876(b)."

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

REPEAL OF SPECIAL TUBERCULOSIS TREATMENT REQUIREMENTS UNDER  
MEDICARE AND MEDICAID

SEC. 2335. (a) Section 1814(a) of the Social Security Act is amended—

(1) in paragraph (2), by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(2) in paragraph (3), by striking out "and inpatient tuberculosis hospital services";

(3) by striking out paragraph (5) and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(4) in the matter following paragraph (7) (as so redesignated), by striking out "(D), or (E)" and inserting in lieu thereof "or (D)".

(b)(1) Subsections (d) and (g) of section 1861 of such Act are repealed.

(2) The fifth sentence of section 1861(e) of such Act is amended by striking out "or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g)) or".

(3) Section 1861(j) of such Act is amended in the matter following paragraph (15) by striking out "or tuberculosis".

(c) Section 1863 of such Act is amended by striking out "(g)(4)".

(d) Section 1866 of such Act is amended—

(1) in subsection (b)(3), by striking out "tuberculosis hospital services and"; and



(2) in subsection (d), by striking out "inpatient tuberculosis hospital services and".

(e) Section 1902(a)(28) of such Act is amended by striking out "and tuberculosis".

(f) Section 1905(a) of such Act is amended by striking out "tuberculosis or" each place it appears in paragraphs (1), (4)(A), (14), and (15) and in the subdivision (B) after paragraph (18).

(g) The amendments made by this section shall become effective on the date of the enactment of this Act.

#### ACCESS TO HOME HEALTH SERVICES

SEC. 2336. (a) Sections 1814(a) and 1835(a) of the Social Security Act are each amended by adding at the end the following new sentence: "For purposes of the preceding sentence, service by a physician as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency." off  
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(b) The third sentence of section 1814(a) of the Social Security Act and the fourth sentence of section 1835(a) of such Act are each amended by inserting before the period at the end the following: " , except that such prohibition shall not apply with respect to a home health agency which is a sole community home health agency (as determined by the Secretary)".

(c)(1) The amendments made by subsection (a) shall apply to certifications and plans of care made or established on or after the date of the enactment of this Act.

(2) The Secretary shall provide, not later than 90 days after the date of the enactment of this Act, for such revision of regulations as may be required to reflect the amendments made by subsection (b).

#### NORMALIZATION OF TRUST FUND TRANSFERS

SEC. 2337. (a) Section 1817(a) of the Social Security Act is amended—

(1) by striking out "monthly on the first day of each calendar month" in the next to last sentence and inserting in lieu thereof "from time to time",

(2) by striking out "to be paid to or deposited into the Treasury during such month" in such sentence and inserting in lieu thereof "paid to or deposited into the Treasury", and

(3) by striking out the last sentence.

(b) The amendments made by subsection (a) shall become effective on the first day of the month following the month in which this Act is enacted.

#### ENROLLMENT AND PREMIUM PENALTY WITH RESPECT TO WORKING-AGED PROVISION

SEC. 2338. (a) The second sentence of section 1839(b) of the Social Security Act is amended by adding before the period at the end the following: " , but there shall not be taken into account months in which the individual has met the conditions specified in clauses (i) and (iii) of section 1862(b)(3)(A) and can demonstrate that the individual was enrolled in a group health plan described in clause (iv) of such section by reason of the individual's (or the individual's spouse's) current employment".





(b) Section 1837 of such Act is amended by adding at the end the following new subsection:

“(i)(1) In the case of an individual who—

“(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

“(B) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual’s (or the individual’s spouse’s) current employment, and

“(C) has elected not to enroll (or to be deemed enrolled) under this section during the individual’s initial enrollment period, there shall be a special enrollment period described in paragraph (3).

“(2) In the case of an individual who—

“(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

“(B) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual’s initial enrollment period and any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual’s (or individual’s spouse’s) current employment, and

“(C) has not terminated enrollment under this section at any time at which the individual is not enrolled in such a group health plan by reason of the individual’s (or individual’s spouse’s) current employment, there shall be a special enrollment period described in paragraph (3).

“(3) The special enrollment period referred to in paragraphs (1) and (2) is the period—

“(A) beginning with the first day of the third month before the month in which the individual attains the age of 70 and ending seven months later, or

“(B) beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later,

whichever period results in earlier coverage.”

(c) Section 1838 of such Act is amended by adding at the end the following new subsection:

“(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to—

“(1) subparagraph (A) of section 1837(i)(3)—

“(A) before the month in which he attains the age of 70, the coverage period shall begin on the first day of the month in which he has attained the age of 70, or

“(B) in or after the month in which he attains the age of 70, the coverage period shall begin on the first day of the month following the month in which he so enrolls; or

“(2) subparagraph (B) of section 1837(i)(3)—

“(A) in the first month of the special enrollment period, the coverage period shall begin on the first day of such month, or

“(B) in a month after the first month of the special enrollment period, the coverage period shall begin on the



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first day of the month following the month in which he so enrolls.”.

(d)(1) The amendment made by subsection (a) shall apply to months beginning with January 1983 for premiums for months beginning with the first month which begins more than 30 days after the date of the enactment of this Act.

(2)(A) The amendments made by subsections (b) and (c) shall apply to enrollments in months beginning with the first effective month, except that in the case of any individual who would have had a special enrollment period under section 1837(i) of the Social Security Act that would have begun before such first effective month, such period shall be deemed to begin with the first day of such first effective month.

(B) For purposes of subparagraph (A), the term “first effective month” means the first month which begins more than 90 days after the date of the enactment of this Act.

INDIRECT PAYMENT OF SUPPLEMENTARY MEDICAL INSURANCE BENEFITS

SEC. 2339. (a) The first sentence of section 1842(b)(6) of the Social Security Act, as redesignated by section 2306 of this title, is amended—

(1) by inserting “(i)” after “(A)”,

(2) by striking out “(B)” and inserting in lieu thereof “(ii)”,  
and

(3) by inserting before the period the following: “, or (B) to an entity (i) which provides coverage of the services under a health benefits plan, but only to the extent that payment is not made under this part, (ii) which has paid the person who provided the service an amount (including the amount payable under this part) which that person has accepted as payment in full for the service, and (iii) to which the individual has agreed in writing that payment may be made under this part”.

(b) The second sentence of such section is amended by striking out “or (B)”.

CERTIFICATION OF PSYCHIATRIC HOSPITALS

SEC. 2340. (a) Section 1861(f) of the Social Security Act is amended—

(1) by adding “and” at the end of paragraph (3);

(2) by striking out “; and” at the end of paragraph (4) and inserting in lieu thereof a period;

(3) by striking out paragraph (5); and

(4) in the second sentence, by striking out “if the institution is accredited” and all that follows through “Secretary”.

(b) Section 1905(h)(1)(A) of such Act is amended to read as follows:

“(A) inpatient services which are provided in an institution (or distinct part thereof) which is a psychiatric hospital as defined in section 1861(f);”.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.





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INCLUDING PODIATRISTS IN DEFINITION OF "PHYSICIAN" FOR OUTPATIENT PHYSICAL THERAPY SERVICES AND INCLUDING PODIATRISTS AND DENTISTS IN DEFINITION OF "PHYSICIAN" FOR OUTPATIENT AMBULATORY SURGERY

SEC. 2341. (a) Section 1861(p)(1) of the Social Security Act is amended by striking out "section 1861(r)(1)" and inserting in lieu thereof "paragraph (1) or (3) of section 1861(r)".

(b) Section 1832(a)(2)(F)(ii) of such Act is amended by striking out "section 1861(r)(1)" and inserting in lieu thereof "paragraph (1), (2), or (3) of section 1861(r)".

(c) Section 1861(r)(3) of such Act is amended—

(1) by striking out "and (m)" the first place it appears and inserting in lieu thereof ", (m), and (p)(1)", and

(2) by inserting ", 1832(a)(2)(F)(ii)," after "1814(a)" the first place it appears.

(d) The amendments made by this section apply to services furnished on or after the date of the enactment of this Act.

ESTABLISHMENT BY PHYSICAL THERAPISTS OF PLANS FOR PHYSICAL THERAPY

SEC. 2342. (a) Section 1861(p)(2) of the Social Security Act is amended by striking out ", and is periodically reviewed, by a physician (as so defined)" and inserting in lieu thereof "by a physician (as so defined) or by a qualified physical therapist and is periodically reviewed by a physician (as so defined)".

(b) Section 1835(a)(2)(C)(ii) of such Act is amended by striking out ", and is periodically reviewed, by a physician" and inserting in lieu thereof "by a physician or by the qualified physical therapist providing such services and is periodically reviewed by a physician".

(c) The amendments made by this section apply to plans of care established on or after the date of the enactment of this Act.

HOSPICE CONTRACTING FOR CORE SERVICES

SEC. 2343. (a) Section 1861(dd)(2)(A)(ii)(I) of the Social Security Act is amended by inserting "except as otherwise provided in paragraph (5)," before "and" at the end thereof.

(b) Section 1861(dd) of such Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The Secretary may waive the requirements of paragraph (2)(A)(ii)(I) for an agency or organization with respect to all or part of the nursing care described in paragraph (1)(A) if such agency or organization—

"(i) is located in an area which is not an urbanized area (as defined by the Bureau of the Census);

"(ii) was in operation on or before January 1, 1983; and

"(iii) has demonstrated a good faith effort (as determined by the Secretary) to hire a sufficient number of nurses to provide such nursing care directly.

"(B) Any waiver, which is in such form and containing such information as the Secretary may require and which is requested by an agency or organization under subparagraph (A), shall be deemed to be granted unless such request is denied by the Secretary within 60 days after the date such request is received by the Secretary. The granting of a waiver under subparagraph (A) shall not preclude the



granting of any subsequent waiver request should such a waiver again become necessary.”.

(c) The amendments made by subsections (a) and (b) shall become effective on the date of the enactment of this Act.

(d) The Secretary of Health and Human Services shall conduct a study of the necessity and appropriateness of the requirements that certain “core” services be furnished directly by a hospice, as required under section 1861(dd)(2)(A)(ii)(I) of the Social Security Act. The Secretary shall report the results of such study to the Congress with the report required under section 122(i)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.

MEDICARE RECOVERY AGAINST CERTAIN THIRD PARTIES

SEC. 2344. (a) Section 1862(b)(1) of the Social Security Act is amended—

(1) in the first sentence, by inserting “promptly” after “to be made”;

(2) in the second sentence, by inserting “or could be” after “has been”; and

(3) by inserting after the second sentence the following new sentences: “In order to recover payment made under this title for an item or service, the United States may bring an action against any entity which would be responsible for payment with respect to such item or service (or any portion thereof) under such a law, policy, plan, or insurance, or against any entity (including any physician or provider) which has been paid with respect to such item or service under such law, policy, plan, or insurance, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of an individual or any other entity to payment with respect to such item or service under such a law, policy, plan, or insurance.”.

(b) Section 1862(b)(2)(B) of such Act is amended—

(1) in the first sentence, by inserting “or could be” after “has been”; and

(2) by inserting after the first sentence the following new sentences: “In order to recover payment made under this title for an item or service, the United States may bring an action against any entity which would be responsible for payment with respect to such item or service (or any portion thereof) under such a plan, or against any entity (including any physician or provider) which has been paid with respect to such item or service under such plan, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of an individual or any other entity to payment with respect to such item or service under such a plan.”.

(c) Section 1862(b)(3)(A)(ii) of such Act is amended—

(1) in the first sentence, by inserting “or could be” after “has been”; and

(2) by inserting after the first sentence the following new sentences: “In order to recover payment made under this title for an item or service, the United States may bring an action against any entity which would be responsible for payment with





respect to such item or service (or any portion thereof) under such a plan, or against any entity (including any physician or provider) which has been paid with respect to such item or service under such plan, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of an individual or any other entity to payment with respect to such item or service under such a plan.”.

(d) The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

#### CONFIDENTIALITY OF ACCREDITATION SURVEYS

SEC. 2345. (a) Section 1865(a) of the Social Security Act is amended—

(1) in paragraph (2), by striking out “(on a confidential basis)”;

and

(2) by adding at the end thereof the following new sentence: “The Secretary may not disclose any accreditation survey made and released to him by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, or any other national accreditation body, of an entity accredited by such body.”.

(b) The amendments made by this section shall become effective on the date of the enactment of this Act, and shall apply with respect to surveys released to the Secretary on, before, or after such date.

#### USE OF ADDITIONAL ACCREDITING ORGANIZATIONS UNDER MEDICARE

SEC. 2346. (a) The third sentence of section 1865(a) of the Social Security Act is amended—

(1) by striking out “section 1861(e), (j), (o), or (dd)” and inserting in lieu thereof “section 1832(a)(2)(F)(i), 1861(e), 1861(f), 1861(j), 1861(o), 1861(p)(4)(A) or (B), paragraphs (11) and (12) of section 1861(s), section 1861(aa)(2), 1861(cc)(2), or 1861(dd)(2)”;

and

(2) by striking out “institution or agency” each place it appears and inserting in lieu thereof in each instance “entity”.

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

#### FUNDING FOR PSRO REVIEW

SEC. 2347. (a)(1) Section 1866(a)(1)(F) of the Social Security Act is amended by striking out “maintain an agreement” and all that follows through “under which the organization”, and inserting in lieu thereof “maintain an agreement with a professional standards review organization (if there is such an organization in existence in the area in which the hospital is located) or with a utilization and quality control peer review organization which has a contract with the Secretary under part B of title XI for the area in which the hospital is located, under which the organization”.

(2) Section 602(1)(1) of the Social Security Amendments of 1983 is repealed.

(b) Notwithstanding section 604(a)(2) of the Social Security Amendments of 1983, the requirement that a hospital maintain an



agreement with a utilization and quality control peer review organization, as contained in section 1866(a)(1)(F) of the Social Security Act, shall become effective on November 15, 1984.

(c)(1) Section 1153(b)(2)(A) of the Social Security Act is amended by striking out "During the first twelve months in which the Secretary is entering into contracts under this section" and inserting in lieu thereof "Prior to November 15, 1984".

(2) Section 1153(b)(2)(B) of such Act is amended by striking out "after the expiration of the twelve-month period referred to in subparagraph (A)" and inserting in lieu thereof "after November 14, 1984".

(3) Section 1153(b)(2) of such Act is amended by striking out subparagraph (C).

(d) The provisions of, and amendments made by, this section shall become effective on the date of the enactment of this Act.

**PAYMENT FOR SERVICES FOLLOWING TERMINATION OF PARTICIPATION AGREEMENTS WITH HOME HEALTH AGENCIES OR HOSPICE PROGRAMS**

SEC. 2348. (a) Section 1866(b)(4)(B) of the Social Security Act is amended by striking out "after the calendar year in which such termination is effective" and inserting in lieu thereof "more than 30 days after such effective date".

(b) The amendment made by this section shall apply to terminations issued on or after the date of the enactment of this Act.

**ELIMINATION OF HEALTH INSURANCE BENEFITS ADVISORY COUNCIL**

SEC. 2349. (a) Section 1867 of the Social Security Act is repealed.

(b)(1) The first sentence of section 1863 of such Act is amended by striking out "the Health Insurance Benefits Advisory Council established by section 1867, appropriate State agencies," and inserting in lieu thereof "appropriate State agencies".

(2) The first sentence of section 7(d)(4) of the Railroad Retirement Act of 1974 is amended by striking out "1867".

(3) Section 361 of the Social Security Amendments of 1977 (Public Law 95-216) is amended by striking out subsection (i).

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

**HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS**

SEC. 2350. (a)(1) Section 1876(c)(3)(A) of the Social Security Act is amended—

(A) by inserting "(i)" after "(3)(A)",

(B) by inserting "and including the 30-day period specified under clause (ii)" after "30 days duration every year", and

(C) by adding at the end thereof the following new clause:

"(ii) For each area served by more than one eligible organization under this section, the Secretary (after consultation with such organizations) shall establish a single 30-day period each year during which all eligible organizations serving the area must provide for open enrollment under this section. The Secretary shall determine annual per capita rates under subsection (a)(1)(A) in a manner that assures that individuals enrolling during such a 30-day period will not have premium charges increased or any additional benefits decreased for 12 months beginning on the date the individual's





enrollment becomes effective. An eligible organization may provide for such other open enrollment period or periods as it deems appropriate consistent with this section."

(2) The Secretary of Health and Human Services may phase in, over a period of not longer than three years, the application of the amendments made by paragraph (1) to all applicable areas in the United States if the Secretary determines that it is not administratively feasible to establish a single 30-day open enrollment period for all such applicable areas before the end of the period.

(b)(1) The first sentence of section 1876(g)(2) of such Act is amended by inserting before the period at the end thereof the following: "and except that an organization (with the approval of the Secretary) may provide that a part of the value of such additional benefits be withheld and reserved by the Secretary as provided in paragraph (5)".

(2) Section 1876(g) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) An organization having a risk-sharing contract under this section may (with the approval of the Secretary and during a period of not longer than four years) provide that a part of the value of additional benefits otherwise required to be provided by reason of paragraph (2) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with paragraph (3). Any of such value of additional benefits which is not provided to members of the organization in accordance with paragraph (3) prior to the end of such period, shall revert for the use of such trust funds."

(3) The Secretary of Health and Human Services may not approve the establishment of a stabilization fund by an eligible organization under section 1876(g)(5) of the Social Security Act for any contract period beginning later than four years after the date of the enactment of this Act.

(4) The Secretary of Health and Human Services shall report to the Congress with respect to the use of stabilization funds by eligible organizations under section 1876(g)(5) of the Social Security Act, and shall assess the need for such funds. The report shall be submitted not later than 54 months after the month in which this Act is enacted.

(c) Section 1876(g)(4)(A) of such Act is amended—

(1) by inserting "and skilled nursing facilities" after "hospitals";

(2) by inserting "or other appropriate basis for payment established under this title" after "section 1861(v)"; and

(3) by striking out "hospital".

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

JUDICIAL REVIEW OF PROVIDER REIMBURSEMENT REVIEW BOARD  
DECISIONS

SEC. 2351. (a)(1) The third sentence of section 1878(f)(1) of the Social Security Act is amended by striking out "such determination



is rendered" and inserting in lieu thereof "notification of such determination is received".

(2) The amendment made by paragraph (1) shall be effective with respect to any civil action commenced on or after the date of the enactment of this Act.

(b)(1) The last sentence of section 1878(f)(1) of such Act is amended by inserting "or which have obtained a hearing under subsection (b)" after "common ownership or control".

(2) The amendment made by paragraph (1) shall be effective with respect to any appeal or action brought on or after the date of the enactment of this Act.

(c) Notwithstanding section 604 of the Social Security Amendments of 1983 (Public Law 98-21)—

(1) the amendments made by section 602(h)(2)(A) of that Act shall be effective with respect to any appeal or action brought on or after April 20, 1983; and

(2) the amendments made by section 602(h)(2)(B) of that Act shall be effective with respect to any appeal or action brought on or after the date of the enactment of this Act.

#### **FLEXIBLE SANCTIONS FOR NONCOMPLIANCE WITH REQUIREMENTS FOR END STAGE RENAL DISEASE FACILITIES**

SEC. 2352. (a) Section 1881(c)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "If the Secretary determines that the facility's or provider's failure to cooperate with network plans and goals does not jeopardize patient health or safety or justify termination of certification, he may instead, after reasonable notice to the provider or facility and to the public, impose such other sanctions as he determines to be appropriate, which sanctions may include denial of reimbursement with respect to some or all patients admitted to the facility after the date of notice to the facility or provider, and graduated reduction in reimbursement for all patients."

(b) The amendment made by this section shall apply to determinations made by the Secretary on or after the date of the enactment of this Act.

#### **PAYMENTS TO PROMOTE CLOSURE AND CONVERSION OF UNDERUTILIZED HOSPITAL FACILITIES**

SEC. 2353. (a) The Secretary of Health and Human Services shall carry out a study and report to the Congress on the modifications required in section 1884 of the Social Security Act in order to conform the closure and conversion program authorized in that section to the prospective payment system under section 1886(d) of such Act, so as to provide assistance to hospitals which may have particular problems in converting facilities (or parts thereof) from acute care to less intensive care or in closing facilities (or parts thereof). The report shall include recommendations as to how, and whether, implementation of section 1884 as modified may result in reductions in total hospital inpatient costs and total expenditures under title XVIII of the Social Security Act. The Secretary shall submit the report prior to March 31, 1985.

(b) During the period prior to March 31, 1985, and notwithstanding section 2101(c) of the Omnibus Budget Reconciliation Act of 1981





(Public Law 97-35), the Secretary shall not implement section 1884 of the Social Security Act.

MISCELLANEOUS TECHNICAL CORRECTIONS RELATING TO MEDICARE

SEC. 2354. (a)(1) Section 1122(b) of the Social Security Act is amended—

(A) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a comma, and

(B) by striking out “(or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963)”.

(2) Section 1122(i)(3) of such Act is amended by striking out “5703(b)” and inserting in lieu thereof “5703”.

(3) Section 1128A(g) of such Act is amended by striking out “Professional Standards Review Organization” and inserting in lieu thereof “utilization and quality control peer review organization”.

(4) Section 1129(a) of such Act is amended by striking out “Sate” and inserting in lieu thereof “State”.

(5) The heading of title XI of such Act is amended by striking out “PROFESSIONAL STANDARDS REVIEW” and inserting in lieu thereof “PEER REVIEW”.

(b)(1) The last sentence of sections 1814(a) of such Act and the last sentence of section 1835(a) of such Act are each amended by striking out “contractural” and inserting in lieu thereof “contractual”.

(2) Sections 1817(c) and 1841(c) of such Act are each amended by striking out “under the Second Liberty Bond Act, as amended” and inserting in lieu thereof “under chapter 31 of title 31, United States Code”.

(3) Section 1818(c)(1) of such Act is amended by striking out “Act” and inserting in lieu thereof “section”.

(4) Section 1818(d)(2) of such Act is amended by striking out “if midway between multiples of \$1” and inserting in lieu thereof “, if a multiple of 50 cents but not a multiple of \$1,”.

(5) Section 1833(a)(2) of such Act is amended by indenting subparagraphs (A) and (B) two additional ems so as to align their left margins with the left margin of subparagraph (C) and by appropriately further indenting the clauses and subclauses of such subparagraphs.

(6) Section 1832(a)(2)(F)(ii)(II) of such Act is amended by striking out “Organization” and inserting in lieu thereof “organization”.

(7) Section 1833(a)(1) of such Act is amended by striking out “and” at the end thereof.

(8) Section 1835(a)(2) of such Act is amended—

(A) by striking out “and” at the end of subparagraphs (B) and (C), and

(B) by indenting subparagraph (D) two additional ems so as to align its left margin with the left margin of subparagraph (C).

(9) Section 1835(e) of such Act is amended—

(A) by inserting “(i)” in paragraph (2) after “written assurances that”,

(B) by striking out “(B)” in paragraph (2) and inserting in lieu thereof “(ii)”,

(C) by striking out “return for” in paragraph (2) and inserting in lieu thereof “return of”, and

(D) by striking out “(1) such hospital” and “(2) the Secretary” and inserting in lieu thereof “(A) such hospital” and “(B) the Secretary”, respectively.



(10) Section 1837(g)(1) of such Act is amended by striking out "section 226(a)(2)(B)" and "section 1839(e)" and inserting in lieu thereof "section 226(b)" and "section 1839(d)", respectively.

(11) Sections 1840(d)(1), 1840(d)(2), and 1841(h) of such Act are each amended by striking out "Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management" each place it appears.

(12) Section 1841(h) of such Act is amended by striking out "it" and inserting in lieu thereof "the Director".

(13) Section 1842(b)(3)(B)(ii)(II) of such Act is amended by striking out the period following "title".

(14) The seventh sentence of section 1842(b)(3) of such Act is amended by striking out "(i)" and "(ii)" and inserting in lieu thereof "(I)" and "(II)", respectively.

(15) Section 1843(d)(3)(B) of such Act is amended by striking out "1937" and inserting in lieu thereof "1974".

(16) Section 1844(a)(1)(B)(ii) of such Act is amended by striking out the period and inserting in lieu thereof "; plus".

(17) Sections 1864(c) and 1875(b) of such Act are each amended by striking out "the" after "Joint Commission on".

(18) Section 1861(j)(2) of such Act is amended by striking out "provision of" and inserting in lieu thereof "provision for".

(19) Section 1861(j)(13) of such Act is amended by striking out "a nursing home" and inserting in lieu thereof "an institution".

(20) Section 1861(u) of such Act is amended by striking out "or" before "home health agency".

(21) Section 1861(v)(1) of such Act is amended—

(A) by redesignating the clause (B) in subparagraph (A) as subparagraph (B) and by indenting the first line of such subparagraph 2 spaces;

(B) by aligning subparagraphs (C) and (D) flush with the left margin (but with appropriate indentation in the case of the clauses and subclauses of subparagraph (C)); and

(C) by inserting a comma after "section 1832(a)(2)(B)(i)" in subparagraph (D).

(22) Section 1861(v)(1)(C)(i) of such Act is amended by inserting a dash after "but only if".

(23) Section 1861(v)(1)(E)(ii) of such Act is amended by striking out "uses" and inserting in lieu thereof "use".

(24) Section 1861(v)(1)(I) of such Act is amended by striking out "to the Secretary, or upon request to the Comptroller General" in clauses (i) and (ii) and inserting in lieu thereof "by the Secretary, or upon request by the Comptroller General".

(25) Section 1861(v)(3) of such Act is amended by striking out "semiprivate" and inserting in lieu thereof "semi-private".

(26) Section 1861(z)(2) of such Act is amended by striking out "subparagraph (1)" and inserting in lieu thereof "paragraph (1)".

(27) Section 1861(aa)(2)(I) of such Act is amended by striking out "ultilization" and inserting in lieu thereof "utilization".

(28) Section 1861(cc)(1)(F) of such Act is amended by striking out "self administered" and inserting in lieu thereof "self-administered".

(29) Section 1861(cc)(2)(F) of such Act is amended by striking out "standard establishment" and inserting in lieu thereof "standards established".

(30) Section 1862(a)(12) of such Act is amended by striking out the second comma after "dental procedure".





(31) Section 1862(b)(3)(A)(iii) of such Act is amended by inserting "before the month" after "ending with the month".

(32) Section 1863 of such Act is amended by striking out "(j)(11)" and inserting in lieu thereof "(j)(15)".

(33) Section 1866(a)(1)(E) of such Act is amended by adding at the end a comma.

(34) Section 1866(b) of such Act is amended by moving the alignment of paragraph (3) two ems to the left so as to align its left margin with the left margin of paragraph (4).

(35) Section 1869(b)(1)(B) of such Act is amended by striking out "or section 1818, or section 1819" and inserting in lieu thereof "or section 1818".

(36) Section 1872 of such Act is amended—

(A) by striking out the comma after "206", and

(B) by striking out "(f)".

(37) Section 1876(b)(2)(D) of such Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "subparagraph (A)".

(38) Section 1876(c)(4)(A)(i) of such Act is amended by striking out "promptly as appropriate" and inserting in lieu thereof "with reasonable promptness".

(39) Section 1878(c) of such Act is amended by striking out "inadmissible" and inserting in lieu thereof "inadmissible".

(40) Section 1878(e) of such Act is amended by striking out " (e), and (f)" and inserting in lieu thereof "and (e)".

(41) Section 1881 of such Act is amended by striking out "end-stage" and inserting in lieu thereof "end stage" each place it appears.

(42) Section 1886(a)(2)(B) of such Act is amended by striking out "disportionate" and inserting in lieu thereof "disproportionate".

(43) Section 1886(b)(3)(A)(ii) of such Act is amended by inserting "of" after "in the case".

(44) Section 1886(d)(3)(D)(i)(I) of such Act is amended by striking out "(C)," and inserting in lieu thereof "(C)".

(c)(1)(A) Section 903(a)(4) of Public Law 96-499 is amended by striking out "new paragraph".

(B) Section 937(c) of Public Law 96-499 is amended by striking out "on on" and inserting in lieu thereof "on or".

(2) Section 2353(h)(1) of Public Law 97-35 is amended by striking out the comma after "XIX".

(3)(A) Section 114(c)(2)(C)(ii) of Public Law 97-248 is amended by inserting "and enrolled under part B" after "part A".

(B) Section 114(c)(3)(E) of Public Law 97-248 is amended—

(i) by striking out "section 1833(a)(1) of the Social Security Act or", and

(ii) by adding before the period at the end the following: " , or reimbursement on a reasonable cost basis under section 1833(a)(1)(A) of such Act".

(C) Section 149 of Public Law 97-248 is amended by striking out "part" and inserting in lieu thereof "subtitle".

(d) Section 162(i)(2) of the Internal Revenue Code of 1954 is amended by striking out "213(e)" and inserting in lieu thereof "213(d)".

(e)(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act; but none of such amendments shall be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date.



(2) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall be effective as if they had been originally included in Public Laws 96-499, 97-35, and 97-248, respectively.

WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2355. (a) In the case of a project described in subsection (b), the Secretary of Health and Human Services shall approve, with appropriate terms and conditions as defined by the Secretary, applications or protocols submitted for waivers described in subsection (c), and the evaluation of such protocols, in order to carry out such project. Such approval shall be effected not later than 30 days after the date on which the application or protocol for a waiver is submitted or not later than 30 days after the date of the enactment of this Act in the case of an application or protocol submitted before the date of the enactment of this Act.

(b) A project referred to in subsection (a) is a project—

(1) to demonstrate the concept of a social health maintenance organization with the organizations as described in Project No. 18-P-9 7604/1—04 of the University Health Policy Consortium of Brandeis University;

(2) which provides for the integration of health and social services under the direct financial management of a provider of services;

(3) under which all medicare services will be provided by or under arrangements made by the organization at a fixed annual prepaid capitation rate for medicare of 100 percent of the adjusted average per capita cost;

(4) under which medicaid services will be provided at a rate approved by the Secretary;

(5) under which all payors will share risk for no more than two years, with the organization being at full risk in the third year;

(6) which is being provided funds under a grant provided by the Secretary of Health and Human Services; and

(7) with respect to which substantial private funds are being provided other than under the grant referred to in paragraph (5).

(c) The waivers referred to in subsection (a) are appropriate waivers of—

(1) certain requirements of title XVIII of the Social Security Act, pursuant to section 402(a) of the Social Security Amendments of 1967 (as amended by section 222 of the Social Security Amendments of 1972); and

(2) certain requirements of title XIX of the Social Security Act, pursuant to section 1115 of such Act.

(d)(1) The Secretary of Health and Human Services shall submit a preliminary report to the Congress on the status of the projects and waivers referred to in subsection (a) 45 days after the date of the enactment of this Act.

(2) The Secretary shall submit a final report to the Congress on the projects referred to in subsection (a) not later than 42 months after the date of the enactment of this Act.





## Subtitle B—Medicaid and Maternal and Child Health Amendments

### MEDICAID COVERAGE FOR PREGNANT WOMEN AND CHILDREN

SEC. 2361. (a) Clause (i) of section 1902(a)(10)(A) of the Social Security Act is amended to read as follows:

“(i) all individuals—

“(I) who are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including individuals eligible under this title by reason of section 402(a)(37), or considered by the State to be receiving such aid as authorized under section 414(g)),

“(II) with respect to whom supplemental security income benefits are being paid under title XVI, or

“(III) who are qualified pregnant women or children as defined in section 1905(n);”.

(b) Section 1905 of such Act is amended by adding at the end thereof the following new subsection:

“(n) The term ‘qualified pregnant woman or child’ means—

“(1) a pregnant woman who—

“(A) would be eligible for aid to families with dependent children under part A of title IV (or would be eligible for such aid if coverage under the State plan under part A of title IV included aid to families with dependent children of unemployed parents pursuant to section 407) if her child had been born and was living with her in the month such aid would be paid, and such pregnancy has been medically verified; or

“(B) is a member of a family which would be eligible for aid under the State plan under part A of title IV pursuant to section 407 if the plan required the payment of aid pursuant to such section; and

“(2) a child who is under 5 years of age, who was born after September 30, 1983, and who meets the income and resources requirements of the State plan under part A of title IV.”.

(c) Section 406(g) of such Act is amended by striking out “(1)” after “(g)”, by striking out paragraph (2), and by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2).

(d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1984, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.



CLARIFICATION OF MEDICAID ENTITLEMENT FOR CERTAIN NEWBORNS

SEC. 2362. (a) Section 1902(e) of the Social Security Act is amended by adding at the end the following new paragraph:

"(4) A child born to a woman eligible for and receiving medical assistance under a State plan on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of one year so long as the child is a member of the woman's household and the woman remains eligible for such assistance."

(b) The amendment made by subsection (a) shall apply to children born on or after October 1, 1984.

RECERTIFICATION OF SNF AND ICF PATIENTS

SEC. 2363. (a)(1) Section 1902(a) of the Social Security Act, as amended by section 2303(g) of this title, is amended—

(A) in paragraph (30)—

(i) by inserting "(A)" after "(30)", and

(ii) by adding at the end the following new subparagraph:

"(B) provide, under the program described in subparagraph (A), that—

"(i) each admission to a hospital, skilled nursing facility, intermediate care facility, or hospital for mental diseases is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved, and

"(ii) the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 percent of all admissions and must be of sufficient size to serve the purpose of (I) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (II) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted to a hospital, skilled nursing facility, intermediate care facility, or hospital for mental diseases;" and

(B) by striking out "and" at the end of paragraph (42), by striking out the period at the end of paragraph (43) and inserting in lieu thereof "; and", and by inserting after paragraph (43) the following new paragraph:

"(44) in each case for which payment for inpatient hospital services, skilled nursing facility services, intermediate care facility services, or inpatient mental hospital services is made under the State plan—





"(A) a physician certifies at the time of admission, or, if later, the time the individual applies for medical assistance under the State plan (and the physician, or a physician assistant or nurse practitioner under the supervision of a physician, recertifies, where such services are furnished over a period of time, in such cases, at least as often as required under section 1903(g)(6) (or, in the case of services that are intermediate care facility services provided in an institution for the mentally retarded, every year), and accompanied by such supporting material, appropriate to the case involved, as may be provided in regulations of the Secretary), that such services are or were required to be given on an inpatient basis because the individual needs or needed such services, and

"(B) such services were furnished under a plan established and periodically reviewed and evaluated by a physician."

(2) Section 1903(g)(1) of such Act is amended—

(A) in the matter preceding subparagraph (A), by striking out "care as an inpatient" and all that follows through "hospital for mental diseases on" and inserting in lieu thereof "inpatient hospital services or intermediate care facility services for 60 days, skilled nursing facility services for 30 days, or inpatient mental hospital services for",

(B) in the matter before subparagraph (A), by striking out "which for purposes of this section means the four calendar quarters ending with June 30," and by striking out "in the same fiscal year", and

(C) by striking out "(including tuberculosis hospitals)" and all that follows through the end of subparagraph (D) and inserting in lieu thereof ", skilled nursing facility services, or intermediate care facility services furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days), such State has an effective program of medical review of the care of patients in mental hospitals, skilled nursing facilities, and intermediate care facilities pursuant to paragraphs (26) and (31) of section 1902(a) whereby the professional management of each case is reviewed and evaluated at least annually by independent professional review teams."

(4) Section 1903(g) of such Act is further amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6)(A) Recertifications required under section 1902(a)(44) shall be conducted at least every 60 days in the case of inpatient hospital services.

"(B) Such recertifications in the case of skilled nursing facility services shall be conducted at least—

"(i) 30 days after the date of the initial certification,

"(ii) 60 days after the date of the initial certification,

"(iii) 90 days after the date of the initial certification, and

"(iv) every 60 days thereafter.

"(C) Such recertifications in the case of intermediate care facility services shall be conducted at least—

"(i) 60 days after the date of the initial certification,

"(ii) 180 days after the date of the initial certification,

"(iii) 12 months after the date of the initial certification,

"(iv) 18 months after the date of the initial certification,

"(v) 24 months after the date of the initial certification, and



“(vi) every 12 months thereafter.

“(D) For purposes of determining compliance with the schedule established by this paragraph, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required and the State establishes good cause why the physician or other person making such recertification did not meet such schedule.”.

(b) Section 1903 of such Act is further amended by adding at the end the following new paragraph:

“(7) It is the duty and responsibility of the Secretary to assure that standards which govern the provision of care in skilled nursing facilities and intermediate care facilities under plans approved under this title, and the enforcement of such standards, are adequate to protect the health and safety of residents and to promote the effective and efficient use of public moneys.”.

(c) The amendments made by subsection (a) apply to calendar quarters beginning on or after the date of the enactment of this Act, except that, in the case of individuals admitted to skilled nursing facilities before such date, the amendments made by such subsection shall not require recertifications sooner or more frequently than were required under the law in effect before such date.

WAIVER OF CERTAIN MEMBERSHIP REQUIREMENTS FOR CERTAIN  
HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2364. Section 1903(m)(2) of the Social Security Act is amended—

(1) by inserting “except as provided under subparagraph (F),” in subparagraph (A)(vi) after “(I)”, and

(2) by adding at the end the following new subparagraphs:

“(E) In the case of a health maintenance organization that—

“(i) is a nonprofit organization with at least 25,000 members,

“(ii) is and has been a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) for a period of at least four years,

“(iii) provides basic health services through members of the staff of the organization,

“(iv) is located in an area designated as medically underserved under section 1302(7) of the Public Health Service Act, and

“(v) previously received a waiver of the requirement described in subparagraph (A)(ii) under section 1115,

the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that special circumstances warrant such modification or waiver and that the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII.

“(F)(i) In the case of a contract with a health maintenance organization described in clause (ii), a State plan may restrict the period in which requests for termination of enrollment without cause under subparagraph (A)(vi)(I) are permitted to the first month of each period of enrollment; each such period of enrollment not to exceed six months in duration, but only if the State provides notification, at least twice per year, to individuals enrolled with such organization of the right to terminate such enrollment and the restriction on the





exercise of this right. Such restriction shall not apply to requests for termination of enrollment for cause.

"(ii) A health maintenance organization referred to in clause (i) is an organization which—

"(I) is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) or a health maintenance organization which is receiving (and has received during the previous two years) a grant of at least \$100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act or is receiving (and has received during the previous two years) at least \$100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and

"(II) meets the requirement of subparagraph (A)(ii)."

INCREASE IN MEDICAID CEILING AMOUNT FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

SEC. 2365. (a) Section 1108(c) of the Social Security Act is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

"(1) Puerto Rico shall not exceed \$63,400,000;

"(2) the Virgin Islands shall not exceed \$2,100,000;

"(3) Guam shall not exceed \$2,000,000;

"(4) the Northern Mariana Islands shall not exceed \$550,000;

and

"(5) American Samoa shall not exceed \$1,150,000."

(b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983.

PAYMENT FOR PSYCHIATRIC HOSPITAL SERVICES

SEC. 2366. The provisions of section 1902(a)(13) of the Social Security Act, in so far as they require a reduction of the amount of payment otherwise to be made to a public psychiatric hospital due to the level of care received in such hospital, shall not apply to payments to hospitals before July 1, 1985, and such a reduction made for payments during the 12-month period ending June 30, 1986, and during the 12-month period ending June 30, 1987, shall be one-third and two-thirds, respectively, of the amount of the reduction which would have been made without regard to this section.

MANDATORY ASSIGNMENT OF RIGHTS OF PAYMENT BY MEDICAID RECIPIENTS

SEC. 2367. (a) Section 1902(a) of the Social Security Act (as amended by sections 2303 and 2363 of this title) is amended—

(1) by striking out "and" at the end of paragraph (43);

(2) by striking out the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (44) the following new paragraph:

"(45) provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients, in accordance with section 1912."



(b) Section 1912(a) of such Act is amended by striking out "State plan for medical assistance may" and inserting in lieu thereof "State plan for medical assistance shall".

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1984.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

REQUIREMENTS FOR MEDICAL REVIEW AND INDEPENDENT  
PROFESSIONAL REVIEW UNDER MEDICAID

SEC. 2368. (a) Section 1902(a)(31) of the Social Security Act is amended to read as follows:

"(31) with respect to skilled nursing facility services (and with respect to intermediate care facility services, where the State plan includes medical assistance for such services) provide—

"(A) with respect to each patient receiving such services, for a written plan of care, prior to admission to or authorization of benefits in such facility, in accordance with regulations of the Secretary, and for a regular program of independent professional review (including medical evaluation) which shall periodically review his need for such services;

"(B) with respect to each skilled nursing or intermediate care facility within the State, for periodic onsite inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), including with respect to each such person (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the facility, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

"(C) for full reports to the State agency by each independent professional review team of the findings of each inspection under subparagraph (B), together with any recommendations;"

(b) Section 1902(a)(26) of such Act is amended to read as follows:

"(26) if the State plan includes medical assistance for inpatient mental hospital services, provide—

"(A) with respect to each patient receiving such services, for a regular program of medical review (including medical evaluation) of his need for such services, and for a written plan of care;

"(B) for periodic inspections to be made in all mental institutions within the State by one or more medical review





teams (composed of physicians and other appropriate health and social service personnel) of the care being provided to each person receiving medical assistance, including (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the institution, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

“(C) for full reports to the State agency by each medical review team of the findings of each inspection under subparagraph (B), together with any recommendations;”.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

**FLEXIBILITY IN SETTING PAYMENT RATES FOR HOSPITALS FURNISHING  
LONG-TERM CARE SERVICES UNDER MEDICAID**

SEC. 2369. (a)(1) Section 1913(b)(1) of the Social Security Act is amended by striking out “Payment” and inserting in lieu thereof “Except as provided in paragraph (3), payment”.

(2) Section 1913(b) of such Act is amended by adding at the end thereof the following new paragraph:

“(3) Payment to all such hospitals, for any skilled nursing or intermediate care facility services furnished pursuant to subsection (a), may be made at a payment rate established by the State in accordance with the requirements of section 1902(a)(13)(A).”.

(b) The amendments made by this section shall apply to payments for services furnished after the date of the enactment of this Act.

**AUTHORITY OF THE SECRETARY TO ISSUE AND ENFORCE SUBPOENAS  
UNDER MEDICAID**

SEC. 2370. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

**“APPLICATION OF PROVISIONS OF TITLE II RELATING TO SUBPOENAS**

“SEC. 1918. The provisions of subsections (d) and (e) of section 205 of this Act shall apply with respect to this title to the same extent as they are applicable with respect to title II.”.

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

**MEDICAID CLINIC ADMINISTRATION**

SEC. 2371. (a) Section 1905(a)(9) of the Social Security Act is amended to read as follows:

“(9) clinic services furnished by or under the direction of a physician, without regard to whether the clinic itself is administered by a physician;”.

(b) The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

**INCREASE IN AUTHORIZATION FOR MATERNAL AND CHILD HEALTH  
BLOCK GRANT**

SEC. 2372. (a) Section 501(a) of the Social Security Act is amended by striking out “\$373,000,000 for fiscal year 1982 and for each fiscal



year thereafter" and inserting in lieu thereof "\$478,000,000 for fiscal year 1984 and each fiscal year thereafter".

(b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983.

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 2373. (a)(1) Section 503(a) of the Social Security Act is amended by striking out "section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)" and inserting in lieu thereof "section 6503(a) of title 31, United States Code".

(2) Section 506(d)(3) of such Act is amended by striking out "section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212)" and inserting in lieu thereof "section 6503(b) of title 31, United States Code".

(b)(1) Section 1902(a)(9) of such Act is amended by indenting subparagraph (C) two additional ems so as to align its left margin with the left margin of subparagraph (B).

(2) Section 1902(a)(10) of such Act is amended by indenting subparagraph (A) (and each of its clauses and subclauses) two additional ems so as to align its left margin (before clause (i)) with the left margin of subparagraph (B).

(3) Section 1902(a)(13)(A) of such Act is amended by striking out "(A)" and all that follows through "hospital" the first place it appears and inserting in lieu thereof "(A) for payment (except where the State agency is subject to an order under section 1914) of the hospital".

(4) Section 1902(a)(20)(B) of such Act is amended by striking out "periodical" and inserting in lieu thereof "periodic".

(5) Section 1902(a)(20)(C) of such Act is amended by striking out ", section 603(a)(1)(A) (i) and (ii)".

(6) Section 1902(a)(26)(B)(ii) of such Act is amended by striking out "homes" and inserting in lieu thereof "facilities".

(7) Section 1902(a)(33)(A) of such Act is amended by striking out "penultimate sentence" and inserting in lieu thereof "second sentence".

(8) Section 1902(a)(42)(B) of such Act is amended by striking out "part" and inserting in lieu thereof "title".

(9) Section 1902(a) of such Act is amended by striking out "For purposes of paragraphs (9)(A)" and all that follows through "do not include" in the last sentence of the third to last paragraph and inserting in lieu thereof "The provisions of paragraphs (9)(A), (31), and (33) and of section 1903(i)(4) shall not apply to".

(10) Section 1902(f) of such Act is amended by striking out "clause (10)(A)" and "clause (10)(C)" and inserting in lieu thereof "paragraph (10)(A)" and "paragraph (10)(C)", respectively, each place each appears.

(11) Section 1903(g)(4)(B) of such Act is amended—

(A) by striking out "paragraph (26)" and inserting in lieu thereof "paragraphs (26)", and

(B) by striking out "diligence" and inserting in lieu thereof "diligence".

(12) Section 1903(m)(2)(B)(i) of such Act is amended—

(A) by striking out "(II)" before "for the period",

(B) by striking out "of such section" in subclause (II) and inserting in lieu thereof "of section 1905(a)", and





(C) by striking out "peroid" and inserting in lieu thereof "period".

(13) Section 1903(m)(2) of such Act is amended by aligning subparagraph (C) flush with the left margin.

(14) Section 1903(s)(3)(B) of such Act is amended by striking out "nonfederal" and inserting in lieu thereof "non-Federal".

(15) Section 1905(a)(4) of such Act is amended by inserting a semicolon before "(B)".

(16) Section 1905(a)(17) of such Act is amended by striking out "he" and inserting in lieu thereof "the nurse-midwife" each place it appears.

(17) The last sentence of section 1905(a) of such Act is amended by striking out "clauses (vi)" and inserting in lieu thereof "clause (vi)", and by striking out "well being" and inserting in lieu thereof "well-being".

(18) The second sentence of section 1905(b) of such Act is amended by striking out everything that follows "the provisions of" and inserting in lieu thereof "section 1101(a)(8)(B).".

(19) Section 1905(d)(1) of such Act is amended by striking out "which meet" and inserting in lieu thereof "the institution meets".

(20) Section 1905(m) of such Act is amended by striking out "he" each place it appears and inserting in lieu thereof "the nurse".

(21) Section 1915(c)(1) of such Act is amended by striking out "under this part" and inserting in lieu thereof "under this title".

(c)(1) The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State during the moratorium period described in paragraph (2) by reason of such State's plan under title XIX of the Social Security Act being determined to be in violation of section 1902(a)(10)(C)(i)(III) of such Act on account of such plan's having a standard or methodology which the Secretary interprets as being less restrictive than the standard or methodology required under such section.

(2) The moratorium period is the period beginning on the date of the enactment of this Act and ending 18 months after the date on which the Secretary submits the report required under paragraph (3).

(3) The Secretary shall report to the Congress within 12 months after the date of the enactment of this Act with respect to the appropriateness, and impact on States and recipients of medical assistance, of applying standards and methodologies utilized in cash assistance programs to those recipients of medical assistance who do not receive cash assistance, and any recommendations for changes in such requirements.

(4) No provision of law shall repeal or suspend the moratorium imposed by this subsection unless such provision specifically amends or repeals this subsection.

## Subtitle C—Recovery of Hill-Burton Funds

### RECOVERY OF HILL-BURTON FUNDS

SEC. 2381. (a) Section 609 of the Public Health Service Act is amended to read as follows:



"RECOVERY

"Sec. 609. (a) If any facility with respect to which funds have been paid under section 606 shall, at any time within 20 years after the completion of construction or modernization—

"(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 605, or (B) which is not approved as a transferee by the State agency designated pursuant to section 604, or its successor, or

"(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

"(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

"(2)(A) After the expiration of—

"(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

"(ii) thirty days after the date of the enactment of this subsection or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection.

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly ninety-day Treasury bill auction rate:

"(B) The period referred to in subparagraph (A) is the period beginning—

"(i) in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b),





"(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

"(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or change of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

"(d)(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

"(A) has established an irrevocable trust—

"(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (2) of section 603(e) or the amount, determined under subsection (c), that the United States is entitled to recover, and

"(ii) which will only be used by the entity to provide the care required by clause (2) of section 603(e); and

"(B) will meet the obligation of the facility under clause (1) of section 603(e).

"(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

"(e) The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under section 606."

(b) Section 1622 of such Act is amended to read as follows:

#### "RECOVERY

"Sec. 1622. (a) If any facility with respect to which funds have been paid under this title shall, at any time within 20 years after the completion of construction or modernization—

"(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 1621 or 1642 or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor, or

"(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

"(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the



agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

“(2)(A) After the expiration of—

“(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

“(ii) thirty days after the date of enactment of this subsection or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

“(B) The period referred to in subparagraph (A) is the period beginning—

“(i) in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b).

“(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

“(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or changes of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

“(d)(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

“(A) has established an irrevocable trust—

“(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (ii) of section 1621(b)(1)(K) or the amount, determined under subsection (c), that the United States is entitled to recover, and

“(ii) which will only be used by the entity to provide the care required by clause (ii) of section 1621(b)(1)(K); and

“(B) will meet the obligation of the facility under clause (i) of section 1621(b)(1)(K).

“(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.





“(e) The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under this title.”.

(c) Not later than the expiration of the one-hundred-and-eighty-day period beginning on the date of the enactment of this section, the Secretary shall have in effect regulations and personnel to place in effect the amendments made by this section.

## **Subtitle D—Uncompensated Services Provided by Skilled Nursing Facilities and Intermedi- ate Care Facilities**

### **STUDY**

SEC. 2391. (a) The Secretary of Health and Human Services shall conduct a study relating to compliance with sections 603(e)(2) and 1621(b)(1)(K)(ii) of the Public Health Service Act (as such sections were in effect on September 30, 1979) to determine whether the regulations implementing such sections should distinguish between hospitals and long-term care facilities assisted under titles VI and XVI of such Act. Not later than January 1, 1985, the Secretary shall transmit to the Congress a report of the results of the study.

(b) Subsection (a) shall take effect October 1, 1984.

## **TITLE IV—SMALL BUSINESS PROGRAMS**

### **SBA DISASTER LOANS**

SEC. 2401. Section 18(a) of the Small Business Act is amended by striking out “October 1, 1986” and by inserting in lieu thereof “October 1, 1987”.

## **TITLE V—VETERANS' PROGRAMS**

### **PART A—COST SAVINGS UNDER THE VETERANS' ADMINISTRATION PENSION PROGRAM**

#### **EFFECTIVE DATE FOR AWARD OF PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH**

SEC. 2501. (a)(1) Subsection (b)(3) of section 3010 of title 38, United States Code, is amended—

(A) by inserting “(A)” after “(3)”;

(B) by inserting “described in subparagraph (B) of this paragraph” after “to a veteran”;

(C) by striking out “an application therefor is received” and inserting in lieu thereof “the veteran applies for a retroactive award”; and

(D) by adding at the end the following new subparagraph:

“(B) A veteran referred to in subparagraph (A) of this paragraph is a veteran who is permanently and totally disabled and who is prevented by a disability from applying for disability pension for a period of at least 30 days beginning on the date on which the veteran became permanently and totally disabled.”.



(2) Subsection (d) of such section is amended to read as follows:

"(d)(1) The effective date of an award of death compensation or dependency and indemnity compensation for which application is received within one year from the date of death shall be the first day of the month in which the death occurred.

"(2) The effective date of an award of death pension for which application is received within 45 days from the date of death shall be the first day of the month in which the death occurred."

(b) The amendments made by subsection (a)(1) and the provisions of paragraph (2) of section 3010(d) of title 38, United States Code, as added by subsection (a)(2), shall take effect with respect to applications that are first received after September 30, 1984, for benefits under chapter 15 of title 38, United States Code.

## **PART B—ACTIONS TO INCREASE RECEIPTS AND REDUCE COSTS UNDER THE VETERANS' ADMINISTRATION HOME-LOAN GUARANTY PROGRAM**

### **INCREASE IN FEE FOR HOME LOANS GUARANTEED BY THE VETERANS' ADMINISTRATION AND EXTENSION OF FEE TO VENDEE LOANS**

SEC. 2511. (a) Section 1829 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "and from each person obtaining a loan from the Administrator to finance the purchase of real property from the Administrator," after "under this chapter,";

(B) by striking out "one-half of"; and

(C) by striking out "to the veteran" after "in the loan";

(2) by striking out subsection (c); and

(3) by redesignating subsection (d) as subsection (c) and striking out "September 30, 1985" in such subsection and inserting in lieu thereof "September 30, 1987".

(b) Section 1824(c) of such title is amended by striking out "and (2)" and inserting in lieu thereof "(2) amounts received by the Administrator as fees collected under section 1829 of this title, and (3)".

(c)(1) The amendments made by subsection (a)(1) shall apply with respect to loans closed after the end of the 30-day period beginning on the date of the enactment of this Act.

(2) The amendments made by subsections (a)(2) and (b) shall apply with respect to loans closed on or after the date of the enactment of this Act.

(3) The amendment made by subsection (a)(3) shall take effect on the date of the enactment of this Act.

### **ACTIONS TO REDUCE COSTS UNDER HOME-LOAN PROGRAM**

SEC. 2512. (a) Section 1816 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by designating the first sentence as paragraph (1), the second and third sentences as paragraph (2), and the fourth sentence as paragraph (3);

(B) by striking out "Administrator who shall thereupon" in paragraph (1) (as so designated) and inserting in lieu





thereof "Administrator of such default. Upon receipt of such notice, the Administrator may, subject to subsection (c) of this section,"; and

(C) by striking out "guaranteed, and shall" in paragraph (1) (as so designated) and inserting in lieu thereof "guaranteed. If the Administrator makes such a payment, the Administrator shall"; and

(2) by adding at the end the following new subsections:

"(c)(1) For purposes of this subsection—

"(A) The term 'defaulted loan' means a loan that is guaranteed under this chapter, that was made for a purpose described in section 1810(a) of this title, and that is in default.

"(B) The term 'liquidation sale' means a judicial sale or other disposition of real property to liquidate a defaulted loan that is secured by such property.

"(C) The term 'net value', with respect to real property, means the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Administrator estimates the Administrator would incur (if the Administrator were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale, and other costs resulting from the acquisition and disposition of the property.

"(D) The term 'total indebtedness', with respect to a defaulted loan, means the amount equal to the total of (i) the unpaid principal of the loan, (ii) the interest on the loan as of the date of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection), and (iii) such reasonably necessary and proper charges (as specified in the loan instrument and permitted by such regulations) associated with liquidation of the loan, including advances for taxes, insurance, and maintenance or repair of the real property securing the loan.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, this subsection applies to any case in which the holder of a defaulted loan undertakes to liquidate the loan by means of a liquidation sale.

"(B) This subsection does not apply to a case in which the Administrator proceeds under subsection (a)(2) of this section.

"(3)(A) Before carrying out a liquidation sale of real property securing a defaulted loan, the holder of the loan shall notify the Administrator of the proposed sale. Such notice shall be provided in accordance with regulations prescribed by the Administrator to implement this subsection.

"(B) After receiving a notice described in subparagraph (A) of this paragraph, the Administrator shall determine the net value of the property securing the loan and the amount of the total indebtedness under the loan and shall notify the holder of the loan of the determination of such net value.

"(4) A case referred to in paragraphs (5), (6), and (7) of this subsection as being described in this paragraph is a case in which the net value of the property securing a defaulted loan exceeds the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter.

"(5) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan



at a liquidation sale for an amount that does not exceed the lesser of the net value of the property or the total indebtedness under the loan—

“(A) the holder shall have the option to convey the property to the United States in return for payment by the Administrator of an amount equal to the lesser of such net value or total indebtedness; and

“(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount of such total indebtedness minus the net value of the property.

“(6) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan either does not acquire the property securing the loan at the liquidation sale or acquires the property at such sale for an amount that exceeds the lesser of the net value of the property or the total indebtedness under the loan—

“(A) the Administrator may not accept conveyance of the property except as provided in paragraph (7) of this subsection; and

“(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount equal to (i) the amount of such total indebtedness, minus (ii) the amount realized by the holder incident to the sale or the net value of the property, whichever is greater.

“(7) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at the liquidation sale for an amount that exceeds the lesser of the total indebtedness under the loan or the net value and that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale—

“(A) the Administrator may accept conveyance of the property to the United States for a price not exceeding the lesser of the amount for which the holder acquired the property or the total indebtedness under the loan; and

“(B) the liability of the United States under the loan guaranty under this chapter is as provided in paragraph (6)(B) of this subsection.

“(8) If the net value of the property securing a defaulted loan is not greater than the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter—

“(A) the Administrator may not accept conveyance of the property from the holder of the loan; and

“(B) the liability of the United States under the loan guaranty shall be limited to the amount of the total indebtedness under the loan minus the amount realized by the holder of the loan incident to the sale at a liquidation sale of the property.

“(9) In no event may the liability of the United States under a guaranteed loan exceed the amount guaranteed with respect to that loan under section 1803(b) of this title. All determinations under this subsection of net value and total indebtedness shall be made by the Administrator.

“(d)(1) Of the number of purchases made during any fiscal year of real property acquired by the Administrator as the result of a default on a loan guaranteed under this chapter for a purpose described in section 1810(a) of this title, not more than 75 percent, nor less than 60 percent, of such purchases may be financed by a loan made by the Administrator. The maximum percentage stated in the preceding sentence may be increased to 80 percent for any





fiscal year if the Administrator determines that such an increase is necessary in order to maintain the effective functioning of the loan guaranty program.

"(2) In carrying out paragraph (1) of this subsection, the Administrator, to the maximum extent consistent with that paragraph and with maintaining the effective functioning of the loan guaranty program under this chapter, shall minimize the number of loans made by the Administrator to finance purchases of real property from the Administrator described in that paragraph.

"(3) Notes securing such loans may be sold with recourse only to the extent that the Administrator determines that selling such notes with recourse is necessary in order to maintain the effective functioning of the loan guaranty program under this chapter."

(b)(1) Subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end the following new section:

**"§1830. Use of attorneys in court**

"(a) Within 180 days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise the right of the United States to bring suit in court to foreclose a loan made or acquired by the Administrator under this chapter and to recover possession of any property acquired by the Administrator under this chapter. With the concurrence of the Attorney General of the United States, the Administrator may acquire the services of attorneys, other than those who are employees of the Veterans' Administration, to exercise that right. The activities of attorneys in bringing suit under this section shall be subject to the direction and supervision of the Attorney General and to such terms and conditions as the Attorney General may prescribe.

"(b) Nothing in this section derogates from the authority of the Attorney General under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1829 the following new item:

**"1830. Use of attorneys in court."**

(c)(1) The amendments made by subsection (a) shall take effect on October 1, 1984.

(2) Subsections (c) and (d) of section 1816 of title 38, United States Code (as added by subsection (a) of this section), shall cease to have effect on October 1, 1987.

(3) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

(d) Not later than 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs and the Attorney General of the United States shall submit to the appropriate committees of the Congress a joint report that—

(1) describes and explains the actions taken by the Administrator and the Attorney General to implement section 1830 of title 38, United States Code, as added by subsection (b); and

(2) sets forth their views with respect to the advisability of actions, pursuant to the second sentence of subsection (a) of such section, to employ private attorneys to bring actions described in that section.



(e)(1) Not later than December 1, 1986, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the administration and functioning of the loan guaranty program conducted by the Veterans' Administration under chapter 37 of title 38, United States Code, and the status of the Veterans' Administration Loan Guaranty Revolving Fund established under section 1824(a) of such title.

(2) The report shall include—

(A) a description of the actions taken by the Administrator during the period beginning on June 1, 1984, and ending on September 30, 1986, and the actions planned as of September 30, 1986 (together with a schedule for completing any actions planned), to maintain the effective functioning of that program and to ensure the solvency of the Fund, including actions with respect to the acquisition of properties following liquidation sales, the making of loans (known as "vendee loans") to finance the sale of properties so acquired, the quality of property appraisals by the Veterans' Administration, and assessments of home-buyer credit worthiness;

(B) the Administrator's evaluation of the effects of the amendments made by subsection (a) (relating to acquisition of properties after liquidation sales and to vendee loans), including the Administrator's evaluation of the effects of subsection (d) of section 1816 of title 38, United States Code (as added by subsection (a)(2)) (relating to vendee loans), on the operation and effective functioning of such program; and

(C) the recommendations of the Administrator regarding any need for administrative or legislative action with respect to such program, including the Administrator's recommendations as to whether or not subsection (c)(2) (providing for the termination of provisions relating to the acquisition of properties and to vendee loans) should be amended.

## TITLE VI—OASDI, SSI, AFDC, AND OTHER PROGRAMS

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## Subtitle A—Improvements in OASDI Program

### SOCIAL SECURITY COVERAGE FOR FEDERAL EMPLOYEES; TREATMENT OF LEGISLATIVE BRANCH EMPLOYEES NOT COVERED BY CIVIL SERVICE RETIREMENT SYSTEM

SEC. 2601. (a)(1) Section 210(a)(5)(B) of the Social Security Act is amended to read as follows:

“(B) is performed by an individual who—



“(G) Any other service in the legislative branch of the Federal Government if such service—

“(i) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

“(ii) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or under the corresponding provision of the law establishing the other retirement system described in clause (i), or

“(iii) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code (without having an application pending for coverage under such subchapter), while performing service in the legislative branch (determined without regard to the provisions of subparagraph (B) relating to continuity of employment), for any period of time after December 31, 1983, and for purposes of this subparagraph (G) an individual is subject to such subchapter III or to any such other retirement system at any time only if (a) such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (b) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);”.

(b)(1) Section 3121(b)(5)(B) of the Internal Revenue Code of 1954 is amended to read as follows:

“(B) is performed by an individual who—

“(i) has been continuously performing service described in subparagraph (A) since December 31, 1983, and for purposes of this clause—

“(I) if an individual performing service described in subparagraph (A) returns to the performance of such service after being separated therefrom for a period of less than 366 consecutive days, regardless of whether the period began before, on, or after December 31, 1983, then such service shall be considered continuous,

“(II) if an individual performing service described in subparagraph (A) returns to the performance of such service after being detailed or transferred to an international organization as described under section 3343 of subchapter III of chapter 33 of title 5, United States Code, or under





“(i) has been continuously performing service described in subparagraph (A) since December 31, 1983, and for purposes of this clause—

“(I) if an individual performing service described in subparagraph (A) returns to the performance of such service after being separated therefrom for a period of less than 366 consecutive days, regardless of whether the period began before, on, or after December 31, 1983, then such service shall be considered continuous,

“(II) if an individual performing service described in subparagraph (A) returns to the performance of such service after being detailed or transferred to an international organization as described under section 3343 of subchapter III of chapter 33 of title 5, United States Code, or under section 3581 of chapter 35 of such title, then the service performed for that organization shall be considered service described in subparagraph (A),

“(III) if an individual performing service described in subparagraph (A) is reemployed or reinstated after being separated from such service for the purpose of accepting employment with the American Institute of Taiwan as provided under section 3310 of chapter 48 of title 22, United States Code, then the service performed for that Institute shall be considered service described in subparagraph (A), and

“(IV) if an individual performing service described in subparagraph (A) returns to the performance of such service after performing service as a member of a uniformed service (including, for purposes of this clause, service in the National Guard and temporary service in the Coast Guard Reserve) and after exercising restoration or reemployment rights as provided under chapter 43 of title 38, United States Code, then the service so performed as a member of a uniformed service shall be considered service described in subparagraph (A); or

“(ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);”.

(2) Section 210(a)(5) of such Act is further amended (in the matter which follows “except that this paragraph shall not apply with respect to—”)

(A) by striking out “(i)”, “(ii)”, “(iii)”, “(iv)”, and “(v)” and inserting in lieu thereof “(C)”, “(D)”, “(E)”, “(F)”, and “(G)”, respectively;

(B) by striking out “(I)”, “(II)”, and “(III)” and inserting in lieu thereof “(i)”, “(ii)”, and “(iii)”, respectively; and

(C) by striking out subparagraph (G) (as redesignated by subparagraph (A) of this paragraph) and inserting in lieu thereof the following:



section 3581 of chapter 35 of such title, then the service performed for that organization shall be considered service described in subparagraph (A),

“(III) if an individual performing service described in subparagraph (A) is reemployed or reinstated after being separated from such service for the purpose of accepting employment with the American Institute in Taiwan as provided under section 3310 of chapter 48 of title 22, United States Code, then the service performed for that Institute shall be considered service described in subparagraph (A), and

“(IV) if an individual performing service described in subparagraph (A) returns to the performance of such service after performing service as a member of a uniformed service (including, for purposes of this clause, service in the National Guard and temporary service in the Coast Guard Reserve) and after exercising restoration or reemployment rights as provided under chapter 43 of title 38, United States Code, then the service so performed as a member of a uniformed service shall be considered service described in subparagraph (A); or

“(ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed service);”

(2) Section 3121(b)(5) of such Code is further amended (in the matter which follows “except that this paragraph shall not apply with respect to—”)

(A) by striking out “(i)”, “(ii)”, “(iii)”, “(iv)”, and “(v)” and inserting in lieu thereof “(C)”, “(D)”, “(E)”, “(F)”, and “(G)”, respectively;

(B) by striking out “(I)”, “(II)”, and “(III)” and inserting in lieu thereof “(i)”, “(ii)”, and “(iii)”, respectively; and

(C) by striking out subparagraph (G) (as redesignated by subparagraph (A) of this paragraph) and inserting in lieu thereof the following:

“(G) any other service in the legislative branch of the Federal Government if such service—

“(i) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

“(ii) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or under the corresponding provision of the law establishing the other retirement system described in clause (i), or

“(iii) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III





of chapter 83 of title 5, United States Code (without having an application pending for coverage under such subchapter), while performing service in the legislative branch (determined without regard to the provisions of subparagraph (B) relating to continuity of employment), for any period of time after December 31, 1983, and for purposes of this subparagraph (G) an individual is subject to such subchapter III or to any such other retirement system at any time only if (a) such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (b) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);”

(c) For purposes of section 210(a)(5)(G) of the Social Security Act and section 3121(b)(5)(G) of the Internal Revenue Code of 1954, an individual shall not be considered to be subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), if he is contributing a reduced amount by reason of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

(d)(1) Any individual who—

(A) was subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983 (as determined for purposes of section 210(a)(5)(G) of the Social Security Act), and

(B)(i) received a lump-sum payment under section 8342(a) of such title 5, or under the corresponding provision of the law establishing the other retirement system described in subparagraph (A), after December 31, 1983, and prior to June 15, 1984, or received such a payment on or after June 15, 1984, pursuant to an application which was filed in accordance with such section 8342(a) or the corresponding provision of the law establishing such other retirement system prior to that date, or

(ii) otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code, for a period after December 31, 1983, to which section 210(a)(5)(g)(iii) of the Social Security Act applies,

shall, if such individual again becomes subject to subchapter III of chapter 83 of title 5 (or effectively applies for coverage under such subchapter) after the date on which he last ceased to be subject to such subchapter but prior to, or within 30 days after, the date of the enactment of this Act, requalify for the exemption from social security coverage and taxes under section 210(a)(5) of the Social



Security Act and section 3121(b)(5) of the Internal Revenue Code of 1954 as if the cessation of coverage under title 5 had not occurred.

(2) An individual meeting the requirements of subparagraphs (A) and (B) of paragraph (1) who is not in the employ of the United States or an instrumentality thereof on the date of the enactment of this Act may requalify for such exemptions in the same manner as under paragraph (1) if such individual again becomes subject to subchapter III of chapter 83 of title 5 (or effectively applies for coverage under such subchapter) within 30 days after the date on which he first returns to service in the legislative branch after such date of enactment, if such date (on which he returns to service) is within 365 days after he was last in the employ of the United States or an instrumentality thereof.

(3) If an individual meeting the requirements of subparagraphs (A) and (B) of paragraph (1) does not again become subject to subchapter III of chapter 83 of title 5 (or effectively apply for coverage under such subchapter) prior to the date of the enactment of this Act or within the relevant 30-day period as provided in paragraph (1) or (2), social security coverage and taxes by reason of section 210(a)(5)(G) of the Social Security Act and section 3121(b)(5)(G) of the Internal Revenue Code of 1954 shall, with respect to such individual's service in the legislative branch of the Federal Government, become effective with the first month beginning after such 30-day period.

(4) The provisions of paragraphs (1) and (2) shall apply only for purposes of reestablishing an exemption from social security coverage and taxes, and do not affect the amount of service to be credited to an individual for purposes of title 5, United States Code.

(e)(1) For purposes of section 210(a)(5) of the Social Security Act (as in effect in January 1983 and as in effect on and after January 1, 1984) and section 3121(b)(5) of the Internal Revenue Code of 1954 (as so in effect), service performed in the employ of a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1954 by an employee who is required by law to be subject to subchapter III of chapter 83 of title 5, United States Code, with respect to such service, shall be considered to be service performed in the employ of an instrumentality of the United States.

(2) For purposes of section 203 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, service described in paragraph (1) which is also "employment" for purposes of title II of the Social Security Act, shall be considered to be "covered service".

(f) Except as provided in subsection (d), the amendments made by subsections (a) and (b) (and the provisions of subsection (e)) shall be effective with respect to service performed after December 31, 1983.

**PROCEDURES TO PREVENT OVERPAYMENTS DUE TO FAILURE TO REPORT EARNINGS**

SEC. 2602. (a) Section 203(h) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary shall develop and implement procedures in accordance with this subsection to avoid paying more than the correct amount of benefits to any individual under this title as a result of such individual's failure to file a correct report or estimate of earnings or wages. Such procedures may include identifying categories of individuals who are likely to be paid more than the





correct amount of benefits and requesting that they estimate their earnings or wages more frequently than other persons subject to deductions under this section on account of earnings or wages.”.

(b) The amendment made by subsection (a) shall be effective upon the date of the enactment of this Act.

**SPECIAL SOCIAL SECURITY TREATMENT FOR CHURCH EMPLOYEES**

SEC. 2603. (a)(1) Section 210(a)(8) of the Social Security Act is amended by inserting “(A)” after “(8)”, by striking out “this paragraph” and inserting in lieu thereof “this subparagraph”, and by adding at the end thereof the following new subparagraph:

“(B) Service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under section 3121(w) of the Internal Revenue Code of 1954, other than service in an unrelated trade or business (within the meaning of section 513(a) of such Code);”.

(2) Section 3121(b)(8) of the Internal Revenue Code of 1954 is amended by inserting “(A)” after “(8)”, by striking out “this paragraph” and inserting in lieu thereof “this subparagraph”, and by adding at the end thereof the following new subparagraph:

“(B) service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under subsection (w), other than service in an unrelated trade or business (within the meaning of section 513(a));”.

(b) Section 3121 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

“(w) EXEMPTION OF CHURCHES AND QUALIFIED CHURCH-CONTROLLED ORGANIZATIONS.—

“(1) GENERAL RULE.—Any church or qualified church-controlled organization (as defined in paragraph (3)) may make an election within the time period described in paragraph (2), in accordance with such procedures as the Secretary determines to be appropriate, that services performed in the employ of such church or organization shall be excluded from employment for purposes of title II of the Social Security Act and chapter 21 of this Code. An election may be made under this subsection only if the church or qualified church-controlled organization states that such church or organization is opposed for religious reasons to the payment of the tax imposed under section 3111.

“(2) TIMING AND DURATION OF ELECTION.—An election under this subsection must be made prior to the first date, more than 90 days after the date of the enactment of this subsection, on which a quarterly employment tax return for the tax imposed under section 3111 is due, or would be due but for the election, from such church or organization. An election under this subsection shall apply to current and future employees, and shall apply to service performed after December 31, 1983. The election may not be revoked by the church or organization, but shall be permanently revoked by the Secretary if such church or organization fails to furnish the information required under section 6051 to the Secretary for a period of 2 years or more with respect to remuneration paid for such services by such church or organization, and, upon request by the Secretary, fails to furnish all such previously unfurnished information for the



period covered by the election. Such revocation shall apply retroactively to the beginning of the 2-year period for which the information was not furnished.

“(3) DEFINITIONS—

“(A) For purposes of this subsection, the term ‘church’ means a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

“(B) For purposes of this subsection, the term ‘qualified church-controlled organization’ means any church-controlled tax-exempt organization described in section 501(c)(3), other than an organization which—

“(i) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and

“(ii) normally receives more than 25 percent of its support from either (I) governmental sources, or (II) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or both.”

(c)(1) Section 211(c)(2) of the Social Security Act is amended—

(A) by striking out “and” at the end of subparagraph (E);

(B) by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof “, and”; and

(C) by adding at the end thereof the following new subparagraph:

“(G) service described in section 210(a)(8)(B);”.

(2) Section 1402(c)(2) of the Internal Revenue Code of 1954 is amended—

(A) by striking out “and” at the end of subparagraph (E);

(B) by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof “, and”; and

(C) by adding at the end thereof the following new subparagraph:

“(G) service described in section 3121(b)(8)(B);”.

(d)(1) Section 211(a) of the Social Security Act is amended—

(A) by striking out “and” at the end of paragraph (11);

(B) by striking out the period at the end of paragraph (12) and inserting in lieu thereof “, and”; and

(C) by inserting after paragraph (12) the following new paragraph:

“(13) With respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

“(A) no deduction for trade or business expenses provided under the Internal Revenue Code of 1954 (other than the deduction under paragraph (11) of this subsection) shall apply;

“(B) the provisions of subsection (b)(2) shall not apply; and

“(C) if the amount of such remuneration from an employer for the taxable year is less than \$100, such remuneration from that employer shall not be included in self-employment income.”





(2) Section 1402(a) of the Internal Revenue Code of 1954 is amended—

(A) by striking out “and” at the end of paragraph (12);

(B) by striking out the period at the end of paragraph (13) and inserting in lieu thereof “; and ”; and

(C) by inserting after paragraph (13) the following new paragraph:

“(14) with respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

“(A) no deduction for trade or business expenses provided under this Code (other than the deduction under paragraph (12)) shall apply;

“(B) the provisions of subsection (b)(2) shall not apply; and

“(C) if the amount of such remuneration from an employer for the taxable year is less than \$100, such remuneration from that employer shall not be included in self-employment income.”

(e) The amendments made by this section shall apply to service performed after December 31, 1983.

(f) In any case where a church or qualified church-controlled organization makes an election under section 3121(w) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall refund (without interest) to such church or organization any taxes paid under sections 3101 and 3111 of such Code with respect to service performed after December 31, 1983, which is covered under such election. The refund shall be conditional upon the church or organization agreeing to pay to each employee (or former employee) the portion of the refund attributable to the tax imposed on such employee (or former employee) under section 3101, and such employee (or former employee) may not receive any other refund payment of such taxes.

## Subtitle B—Improvements in SSI and AFDC Programs

### PART 1—IMPROVEMENTS IN SSI PROGRAM

#### INCREASE IN DOLLAR LIMITATIONS UNDER ASSETS TEST

SEC. 2611. (a) Section 1611(a)(1)(B) of the Social Security Act is amended—

(1) by striking out “\$2,250” and inserting in lieu thereof “the applicable amount determined under paragraph (3)(A)”; and

(2) by striking out “\$1,500” and inserting in lieu thereof “the applicable amount determined under paragraph (3)(B)”.

(b) Section 1611(a)(2)(B) of such Act is amended by striking out “\$2,250” and inserting in lieu thereof “the applicable amount determined under paragraph (3)(A)”.

(c) Section 1611(a) of such Act is further amended by adding at the end thereof the following new paragraph:

“(3)(A) The dollar amount referred to in clause (i) of paragraph (1)(B), and in paragraph (2)(B), shall be \$2,250 prior to January 1, 1985, and shall be increased to \$2,400 on January 1, 1985, to \$2,550 on January 1, 1986, to \$2,700 on January 1, 1987, to \$2,850 on January 1, 1988, and to \$3,000 on January 1, 1989.



“(B) The dollar amount referred to in clause (ii) of paragraph (1)(B), shall be \$1,500 prior to January 1, 1985, and shall be increased to \$1,600 on January 1, 1985, to \$1,700 on January 1, 1986, to \$1,800 on January 1, 1987, to \$1,900 on January 1, 1988, and to \$2,000 on January 1, 1989.”.

(d) Section 1621(b)(2)(B) of such Act is amended—

- (1) by striking out “\$1,500” and inserting in lieu thereof “the applicable amount determined under section 1611(a)(3)(B)”;
- (2) by striking out “\$2,250” and inserting in lieu thereof “the applicable amount determined under section 1611(a)(3)(A)”.

#### LIMITATION OF RECOUPMENT RATE IN CASE OF OVERPAYMENTS

SEC. 2612. (a) Section 1631(b)(1) of the Social Security Act is amended—

(1) by inserting “(A)” after “The Secretary” in the second sentence; and

(2) by striking out the period at the end of the second sentence and inserting in lieu thereof the following: “, and (B) shall in any event make the adjustment or recovery (in the case of payment of more than the correct amount of benefits), in the case of an individual or eligible spouse receiving benefit payments under this title (including supplementary payments of the type described in section 1616(a) and payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), in amounts which in the aggregate do not exceed (for any month) the lesser of (i) the amount of his or their benefit under this title for that month or (ii) an amount equal to 10 percent of his or their income for that month (including such benefit but excluding any other income excluded pursuant to section 1612(b)), unless fraud, willful misrepresentation, or concealment of material information was involved on the part of the individual or spouse in connection with the overpayment, or unless the individual requests that such adjustment or recovery be made at a higher or lower rate and the Secretary determines that adjustment or recovery at such rate is justified and appropriate. The availability (in the case of an individual who has been paid more than the correct amount of benefits) of procedures for adjustment or recovery at a limited rate under clause (B) of the preceding sentence shall not, in and of itself, prevent or restrict the provision (in such case) of more substantial relief under clause (A) of such sentence.”.

(b) If an adjustment referred to in section 1631(b)(1) of the Social Security Act is in effect with respect to an individual or eligible spouse on the effective date of this subsection, and the amount of such adjustment for a month is greater than the amount described in section 1631(b)(1)(B)(ii) of such Act, as added by subsection (a), the Secretary shall notify the individual whose benefits are being adjusted, in writing, of his or her right to have the adjustment reduced to the amount described in such section 1631(b)(1)(B)(ii).

#### TREATMENT OF OVERPAYMENTS WHEN RECIPIENT'S COUNTABLE ASSETS EXCEED LIMITS IN CERTAIN CASES

SEC. 2613. Section 1631(b) of the Social Security Act is amended—

- (1) by redesignating paragraph (3) as paragraph (4); and





(2) by inserting after paragraph (2) the following new paragraph:

"(3) If any overpayment with respect to an individual (or an individual and his or her spouse) is attributable solely to the ownership or possession by such individual (and spouse if any) of resources having a value which exceeds the applicable dollar figure specified in paragraph (1)(B) or (2)(B) of section 1611(a) by \$50 or less, such individual (and spouse if any) shall be deemed for purposes of the second sentence of paragraph (1) to have been without fault in connection with the overpayment, and no adjustment or recovery shall be made under the first sentence of such paragraph, unless the Secretary finds that the failure of such individual (and spouse if any) to report such value correctly and in a timely manner was knowing and willful."

EXCLUSION OF UNDERPAYMENTS FROM RESOURCES

SEC. 2614. Section 1613(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) any amount received from the United States which is attributable to underpayments of benefits due for one or more prior months, under this title or title II, to such individual (or spouse) or to any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title; but the application of this paragraph in the case of any such individual (and eligible spouse if any), with respect to any amount so received from the United States, shall be limited to the first 6 months following the month in which such amount is received, and written notice of this limitation shall be given to the recipient concurrently with the payment of such amount."

ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS  
UNDER TITLE II

SEC. 2615. (a) Section 1127 of the Social Security Act is amended to read as follows:

"ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE  
BENEFITS UNDER TITLE II

"SEC. 1127. (a) Notwithstanding any other provision of this Act, in any case where an individual—

"(1) is entitled to benefits under title II that were not paid in the months in which they were regularly due; and

"(2) is an individual or eligible spouse eligible for supplemental security income benefits for one or more months in which the benefits referred to in clause (1) were regularly due, then any benefits under title II that were regularly due in such month or months, or supplemental security income benefits for such month or months, which are due but have not been paid to such individual or eligible spouse shall be reduced by an amount equal to



so much of the supplemental security income benefits, whether or not paid retroactively, as would not have been paid or would not be paid with respect to such individual or spouse if he had received such benefits under title II in the month or months in which they were regularly due.

"(b) For purposes of this section, the term 'supplemental security income benefits' means benefits paid or payable by the Secretary under title XVI, including State supplementary payments under an agreement pursuant to section 1616(a) or an administration agreement under section 212(b) of Public Law 93-66.

"(c) From the amount of the reduction made under subsection (a), the Secretary shall reimburse the State on behalf of which supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the month or months involved exceeded the expenditures which the State would have made (for such month or months) if the individual had received the benefits under title II at the times they were regularly due. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury."

(b) The amendment made by this section shall apply for purposes of reducing retroactive benefits under title II of the Social Security Act or retroactive supplemental security income benefits payable beginning with the seventh month following the month in which this Act is enacted; except that in the case of retroactive title II benefits other than those which result from a determination of entitlement following an application for benefits under title II or from a reinstatement of benefits under title II following a period of suspension or termination of such benefits, it shall apply when the Secretary of Health and Human Services determines that it is administratively feasible.

#### EXCLUSION FROM INCOME OF CERTAIN ALASKA BONUS PAYMENTS

SEC. 2616. (a) Section 1612(b)(2)(B) of the Social Security Act is amended to read as follows:

"(B) monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973 (or any program established prior to such date but subsequently amended so as to conform to State or Federal constitutional standards), if (i) such payments are made by the State of which the individual receiving such payments is a resident, (ii) eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 or any other age set by the State and residency in such State by such individual, and (iii) on or before September 30, 1985, such individual (I) first becomes an eligible individual or an eligible spouse under this title, and (II) satisfies the twenty-five-year residency requirement of such program as such program was in effect prior to January 1, 1983."

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.





## PART 2—IMPROVEMENTS IN AFDC PROGRAM

### GROSS INCOME LIMITATION

SEC. 2621. Section 402(a)(18) of the Social Security Act is amended by striking out "150 percent of the State's standard of need" and inserting in lieu thereof "185 percent of the State's standard of need".

### WORK EXPENSE DEDUCTION

SEC. 2622. Section 402(a)(8)(A)(ii) of the Social Security Act is amended by striking out all that follows "the first \$75 of the total of such earned income for such month" and inserting in lieu thereof a semicolon.

### CONTINUATION OF \$30 DISREGARD FROM EARNED INCOME

SEC. 2623. (a) Section 402(a)(8)(A)(iv) of the Social Security Act is amended by inserting "(I)" after "equal to", and by inserting "(II)" after "plus".

(b) Section 402(a)(8)(B)(ii)(I) of such Act is amended—

(1) by striking out all that precedes "specified in subparagraph (A)(ii)" and inserting in lieu thereof the following:

"(I) shall not disregard—

"(a) under subclause (II) of subparagraph (A)(iv), in a case where such subclause has already been applied to the income of the persons involved for four consecutive months while they were receiving aid under the plan, or

"(b) under subclause (I) of subparagraph (A)(iv), in a case where such subclause has already been applied to the income of the persons involved for twelve consecutive months while they were receiving aid under the plan,

any earned income of any of the persons"; and

(2) by striking out "and subparagraph (A)(iv) has not already been applied to their income for four consecutive months while they were receiving aid under the plan".

(c) Section 402(a)(8)(B)(ii)(II) of such Act is amended by striking out "shall not apply" where it first appears and all that follows down through "any month thereafter" and inserting in lieu thereof the following: "shall not apply the provisions of subclause (II) of such subparagraph to any month after such month, or apply the provisions of subclause (I) of such subparagraph to any month after the eighth month following such month, for so long as he continues to receive aid under the plan, and shall not apply the provisions of either such subclause to any month thereafter".

### WORK TRANSITION IN THE CASE OF CERTAIN FAMILIES WHO LOSE AFDC BENEFITS BECAUSE OF EARNED INCOME

SEC. 2624. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (35);



(2) by striking out the period at the end of paragraph (36) and inserting in lieu thereof “; and”; and

(3) by adding after paragraph (36) the following new paragraph:

“(37) provide that, in any case where a family has ceased to receive aid under the plan because (by reason of paragraph (8)(B)(ii)(II)) the provisions of paragraph (8)(A)(iv) no longer apply, such family shall be considered for purposes of title XIX to be receiving aid to families with dependent children under such plan for a period of 9 months after the last month for which the family actually received such aid; and the State may at its option extend such period by an additional period of up to 6 months in the case of a family that would be eligible during such additional period to receive aid under the plan (without regard to this paragraph) if such paragraph (8)(A)(iv) applied.”.

(b)(1) The amendments made by this section shall apply with respect to months beginning on or after October 1, 1984.

(2) Such amendments shall apply with respect to families which ceased to receive aid under the applicable State plan (for the reason stated in section 402(a)(37) of the Social Security Act as added by subsection (a) of this section) before October 1, 1984, as well as with respect to families which cease to receive aid (for that reason) on or after that date; but any family which ceased to receive such aid before that date, in order to be eligible to be treated as receiving aid under the plan for any period after ceasing to receive such aid (as provided for in such section 402(a)(37))—

(A) must make its application for such treatment no later than the end of the sixth month after the month in which final regulations governing the application of such section 402(a)(37) are promulgated by the Secretary of Health and Human Services (and in the case of any such family the term “last month for which the family actually received such aid” as used in such section 402(a)(37) means the month before the month in which the family makes such application);

(B) must be a family that would have been continuously eligible for aid under the State plan (without regard to the amendments made by this section), from the time it ceased to receive such aid to the time of its application under subparagraph (A), if section 402(a)(8)(A)(iv) of such Act applied; and

(C) must fully disclose, in its application under subparagraph (A), any health insurance coverage which its members may have in effect.

#### CLARIFICATION OF EARNED INCOME PROVISION

SEC. 2625. (a) Section 402(a)(8) of the Social Security Act is amended by striking out “and” at the end of subparagraph (A), by adding “and” at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

“(C) provide that in implementing this paragraph the term ‘earned income’ shall mean gross earned income, prior to any deductions for taxes or for any other purposes.”.

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.





H. R. 4170—643

EXCLUSION OF BURIAL PLOTS, FUNERAL AGREEMENTS, AND CERTAIN  
PROPERTY FROM LIMITATION ON FAMILY RESOURCES

SEC. 2626. Section 402(a)(7)(B) of the Social Security Act is amended by inserting "(i)" after "for purposes of this subparagraph", and by inserting before the semicolon at the end thereof the following: ", (ii) under regulations prescribed by the Secretary, burial plots (one for each such child, relative, and other individual), and funeral agreements or (iii) for such period or periods of time as the Secretary may prescribe, real property which the family is making a good-faith effort to dispose of, but any aid payable to the family for any such period shall be conditioned upon such disposal, and any payments of such aid for that period shall (at the time of the disposal) be considered overpayments to the extent that they would not have been made had the disposal occurred at the beginning of the period for which the payments of such aid were made".

FEDERAL MATCHING FOR EXPENSES INCURRED BY STATES IN REIMBURS-  
ING AFDC RECIPIENTS FOR TRANSPORTATION AND DAY CARE COSTS AT-  
TRIBUTABLE TO PARTICIPATION IN CWEP

SEC. 2627. Section 409(a)(1)(F) of the Social Security Act is amended—

(1) by inserting "(i) except as provided in clause (ii)" after "that"; and

(2) by inserting before the period at the end thereof the following: ", and (ii) to the extent that the State is unable to provide for the costs involved through the furnishing of services directly to the individuals participating in the program, participants who are recipients of aid under the State's plan approved under section 402 will instead be reimbursed for transportation costs directly related to their participation in the program (in amounts equal to the cost of transportation by the most appropriate means as determined by the State agency), and for day care expenses directly attributable to such participation (in amounts determined by the State agency to be reasonable, necessary, and cost-effective but not in excess of the comparable maximum day care deduction allowed under section 402(a)(8)(A)(iii) for recipients of aid under the plan generally); and amounts paid as reimbursement to participants under clause (i) or (ii) shall be considered, for purposes of section 403(a), to be expenditures made for the proper and efficient administration of the State's plan approved under section 402".

MONTHLY REPORTING AND RETROSPECTIVE BUDGETING

SEC. 2628. (a) Section 402(a)(13) of the Social Security Act is amended—

(1) by striking out "provide that—" and inserting in lieu thereof "with respect to families who are required to report monthly to the State agency pursuant to paragraph (14) (and at the option of the State with respect to other families), provide that—"; and

(2) by striking out "but only where the Secretary determines it to be appropriate" in subparagraphs (A) and (B) and inserting in lieu thereof "(but only where the Secretary determines it to be appropriate, in the case of families who are required to



report monthly to the State agency pursuant to paragraph (14))”.

(b) Section 402(a)(14) of such Act is amended—

(1) by striking out “(A) provide that” and inserting in lieu thereof “with respect to families in the category of recent work history or earned income cases (and at the option of the State with respect to families in other categories), provide (A) that”;

(2) by striking out “with the prior approval of the Secretary” and inserting in lieu thereof “(with the prior approval of the Secretary in recent work history and earned income cases)”;

and

(3) by striking out “upon the State’s showing to the satisfaction of the Secretary that” and inserting in lieu thereof “upon a determination that”.

(c) Section 402(a) of such Act is further amended by adding at the end thereof (after and below paragraph (37), as added by section 2624(a) of this Act) the following new sentence: “The Secretary may waive any of the requirements imposed under or in connection with paragraphs (13) and (14) of this subsection to the extent necessary to make such requirements compatible with the corresponding reporting and budgeting requirements by the Food Stamp Act of 1977.”.

#### TREATMENT OF EARNED INCOME TAX CREDIT IN DETERMINING COUNTABLE INCOME

SEC. 2629. Section 402(d)(1) of the Social Security Act is amended to read as follows:

“(1) For purposes of paragraphs (7) and (8) of subsection (a), any refund of Federal income taxes made by reason of section 32 of the Internal Revenue Code of 1954 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit) shall be considered earned income.”.

#### FEDERALLY ASSISTED PILOT PROJECTS TO DEMONSTRATE ONE-STOP SERVICE DELIVERY SYSTEMS

SEC. 2630. Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

#### “PILOT PROJECTS TO DEMONSTRATE THE USE OF INTEGRATED SERVICE DELIVERY SYSTEMS FOR HUMAN SERVICES PROGRAMS

“SEC. 1136. (a) In order to develop and demonstrate ways of improving the delivery of services to individuals and families who need them under the various human services programs, by eliminating programmatic fragmentation and thereby assuring that an applicant for services under any one such program will be informed of and have access to all of the services which may be available to him or his family under the other human services programs being carried out in the community involved, any State having an approved plan under part A of title IV may, subject to the provisions of this section, establish and conduct one or more pilot projects to demonstrate the use of integrated service delivery systems for human services programs in that State or in one or more political subdivisions thereof.





"(b) The integration of service delivery systems for human services programs in any State or locality under a pilot project established under this section shall involve or include—

"(1) the development of a common set of terms for use in all of the human services programs involved;

"(2) the development for each applicant of a single comprehensive family profile which is suitable for use under all of the human services programs involved;

"(3) the establishment and maintenance of a single resources directory by which the citizens of the community involved may be informed of and gain access to the services which are available under all such programs;

"(4) the development of a unified budget and budgeting process, and a unified accounting system, with standardized audit procedures;

"(5) the implementation of unified planning, needs assessment, and evaluation;

"(6) the consolidation of agency locations and related transportation services;

"(7) the standardization of procedures for purchasing services from nongovernmental sources;

"(8) the creation of communications linkages among agencies to permit the serving of individual and family needs across program and agency lines;

"(9) the development, to the maximum extent possible, of uniform application and eligibility determination procedures; and

"(10) any other methods, arrangements, and procedures which the Secretary determines are necessary or desirable for, and consistent with, the establishment and operation of an integrated service delivery system.

"(c)(1) Any State which desires to establish and conduct a pilot project under this section, after having published a description of the proposed project and invited comments thereon from interested persons in the community or communities which would be affected, shall submit an application to the Secretary (in such form and containing such information as the Secretary may require) within 6 months after the date of the enactment of this section. The proposed project may be statewide in operation or may be limited to one or more political subdivisions of the State; and the application shall in any event include or be accompanied by satisfactory assurances that the project as proposed would be permitted under applicable State and local law.

"(2) The Secretary shall consider all applications and accompanying comments and materials which are submitted under paragraph (1), and, no later than 9 months after the date of the enactment of this section, shall approve no fewer than 3 nor more than 5 of the proposed projects (including one such project to be operated on a statewide basis). In considering and approving such applications the Secretary shall take into account the size and characteristics of the population that would be served by each proposed project, the desirability of wide geographic distribution among the projects, the number and nature of the human services programs which are in active operation in the various communities involved, and such other factors as may tend to indicate whether or not a particular proposed project would provide a useful and effective demonstration of the value of an integrated service delivery system. Each project



approved under this paragraph shall be deemed for purposes of this section to begin on the first day of the month following the month in which the application with respect to such project is approved.

"(3) The Secretary shall approve any application for a project under this section only after determining that the conduct of such project will not lower or restrict the levels of aid, assistance, benefits, or services, or the income or resource standards, deductions, or exclusions, under any of the human services programs involved, and will not delay the provision of aid, assistance, benefits, or services under any of such programs.

"(d)(1) Any State whose application is approved under subsection (c) may submit to the Secretary a request for the waiver of any requirement which would otherwise apply with respect to the proposed project under any of the laws governing the human services programs to be included in the project; and—

"(A) if the law involved is within the jurisdiction of the Secretary and authority to grant the waiver involved is otherwise available to the Secretary under this title, title IV, or any other provision of law, the Secretary shall approve such request upon a determination that the waiver is necessary for the project to provide a useful and effective demonstration of the value of an integrated service delivery system; and

"(B) if the law involved is within the jurisdiction of a Federal agency other than the Department of Health and Human Services and authority to grant the waiver involved is available to the head of such other agency under that law or any other provision of law, the Secretary shall transmit such request (on behalf of the requesting State) to the head of such other agency, who shall approve such request upon a determination that the waiver is necessary for the project to provide a useful and effective demonstration of the value of an integrated service delivery system and who shall certify such approval to the Secretary.

"(2) If under the law governing any of the human services programs included within a project there are provisions establishing safeguards which limit or restrict the use or disclosure of information (concerning applicants for or recipients of benefits or services) which has been obtained or developed by the agency involved in the conduct of that program, and a waiver of such provisions is granted under paragraph (1) in order to make such information available for purposes of the project—

"(A) the State shall provide each applicant for and recipient of aid, assistance, benefits, or services under the proposed integrated service delivery system with a clear and readily comprehensible notice that such information may be disclosed to and used by project personnel, or exchanged with the other agencies having responsibility for human services programs included within the project;

"(B) the State shall take such steps as may be necessary to ensure that the information disclosed will be used only for purposes of, and by persons directly connected with, such project; and

"(C) the State's application with respect to the project under subsection (c) shall contain or be accompanied by satisfactory assurances that the preceding requirements of this paragraph will be fully complied with.





“(e) The Secretary shall from time to time pay to each State which has an approved pilot project under this section, in such manner and according to such schedule as may be agreed upon by the Secretary and such State, amounts equal in the aggregate to—

“(1) 90 percent of the costs incurred by such State and its political subdivisions in carrying out such project during the first 18 months after the date on which the project begins,

“(2) 80 percent of any such costs incurred during the 12-month period beginning with the nineteenth month after such date, and

“(3) 70 percent of any such costs incurred during the 12-month period beginning with the thirty-first month after such date.

“(f)(1) For purposes of this section, the term ‘human services program’ includes the program of aid to families with dependent children under part A of title IV, the supplemental security income benefits program under title XVI, the Federal food stamp program, and any other Federal or federally assisted program (other than a program under the Rehabilitation Act of 1973) which provides aid, assistance, or benefits based wholly or partly on need or on income-related qualifications to specified classes or types of individuals or families or which is designed to help in crisis or emergency situations by meeting the basic human needs of individuals or families whose own resources are insufficient for that purpose.

“(2) In carrying out this section the Secretary shall regularly consult with the Secretary of Labor, the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the head of any other Federal agency having jurisdiction over or responsibility for one or more human services programs, in order to ensure that the administrative efforts of the various agencies involved are coordinated with respect to all of the pilot projects being carried out under this section.

“(g) The Secretary shall require each State which is carrying out a pilot project under this section to submit periodic reports on the progress of such project, giving particular attention to the cost-effectiveness of the integrated service delivery system involved and the extent to which such system is improving the delivery of services. No pilot project under this section shall be conducted for a period of longer than 42 months. The first such report shall be submitted no later than 3 months after the date on which the project begins.

“(h) The Secretary shall from time to time submit to the Congress a report on the progress and current status of each of the approved pilot projects under this section. Each such report shall reflect the periodic reports theretofore submitted to the Secretary by the States involved under subsection (g), and shall contain such additional comments, findings, and recommendations with respect to the operation of the program under this section as the Secretary may determine to be appropriate.

“(i) The Comptroller General shall, at such time or times as he determines to be appropriate, review and evaluate any or all of the pilot projects undertaken pursuant to this section, and shall from time to time report to the Congress on the results of such reviews and evaluations together with his findings and recommendations with respect thereto.

“(j) There are authorized to be appropriated, for the four-fiscal-year period beginning with the fiscal year 1985, such sums, not to



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exceed \$8,000,000 in the aggregate, as may be necessary to carry out this section.”.

EXEMPTION OF CERTAIN PREGNANT WOMEN FROM REGISTRATION FOR  
WORK OR TRAINING

SEC. 2631. Section 402(a)(19)(A) of the Social Security Act is amended—

- (1) by striking out “or” at the end of clause (vii);
- (2) by adding “or” after the semicolon at the end of clause (viii); and
- (3) by inserting immediately after clause (viii) the following new clause:

“(ix) a woman who is pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the 3-month period immediately following such month;”.

TREATMENT OF NONRECURRING LUMP SUM INCOME

SEC. 2632. (a) Section 402(a)(17) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (B)) the following:

“except that the State may at its option recalculate the period of ineligibility otherwise determined under subparagraph (A) (but only with respect to the remaining months in such period) in any one or more of the following cases: (i) an event occurs which, had the family been receiving aid under the State plan for the month of the occurrence, would result in a change in the amount of aid payable for such month under the plan, or (ii) the income received has become unavailable to the members of the family for reasons that were beyond the control of such members, or (iii) the family incurs, becomes responsible for, and pays medical expenses (as allowed by the State) in a month of ineligibility determined under subparagraph (A) (which expenses may be considered as an offset against the amount of income received in the first month of such ineligibility);”.

(b) Section 402(a)(17) of such Act is further amended—

(1) by striking out “a person specified in paragraph (8)(A) (i) or (ii)” in the matter preceding subparagraph (A) and inserting in lieu thereof “a child or relative applying for or receiving aid to families with dependent children, or any other person whose need the State considers when determining the income of a family,”; and

(2) effective on the date of the enactment of this Act, by striking out “an amount of income” in the matter preceding subparagraph (A) and inserting in lieu thereof “an amount of earned or unearned income”.

WAIVER OF OVERPAYMENT RECOUPMENT WHEN COST OF COLLECTION  
WOULD EXCEED AMOUNT DUE

SEC. 2633. (a) Section 402(a)(22) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (C)) the following:





"except that no recovery need be attempted or carried out under subparagraph (B) in any case, other than a case involving fraud on the part of the recipient, where (as determined by the State agency in accordance with criteria for determining cost-effectiveness, and with dollar limitations, which shall be prescribed by the Secretary in regulations) the cost of recovery would equal or exceed the amount of the overpayment involved;"

(b) Section 402(a)(22)(A) of such Act is amended by inserting after "current recipient of such aid" the following: "(including a current recipient whose overpayment occurred during a prior period of eligibility)".

#### EXCEPTIONS TO REQUIREMENTS FOR PROTECTIVE PAYMENTS

SEC. 2634. (a) Section 402(a)(19)(F)(i) of the Social Security Act is amended by striking out "will be made" and inserting in lieu thereof "will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made".

(b) Section 402(a)(26)(B) of such Act is amended by inserting before the semicolon at the end thereof the following: "unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made".

#### ELIGIBILITY REQUIREMENTS FOR ALIENS

SEC. 2635. Section 415(c)(1) of the Social Security Act is amended by striking out "Any individual" and all that follows down through "be required to provide" where it first appears and inserting in lieu thereof the following: "Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for aid under a State plan approved under this part during the period of three years after his or her entry into the United States, unless the State agency administering such plan determines that such sponsor either no longer exists or has become unable to meet such individual's needs; and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such individual, and any other individual who is an alien (as a condition of his or her eligibility for aid under a State plan approved under this part during the period of three years after his or her entry into the United States), shall be required to provide".

#### PROVISION BY STATE AGENCIES OF INFORMATION REGARDING FUGITIVE FELONS

SEC. 2636. Section 402(a)(9) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: "; but such safeguards shall not prevent the State agency or the local agency responsible for the administration of the State plan in the locality (whether or not the State has enacted legislation allowing public access to Federal welfare records) from furnishing a State or local law enforcement officer, upon his request, with the current address of any recipient if the officer furnishes the agency with such recipient's name and social security account number and satisfactorily demonstrates that such recipient is a fugitive felon, that the



location or apprehension of such felon is within the officer's official duties, and that the request is made in the proper exercise of those duties".

**PAYMENT SCHEDULE FOR REIMBURSEMENT OF CERTAIN BACK CLAIMS  
DUE THE STATES**

SEC. 2637. The payment schedule contemplated by section 136 of Public Law 97-276 for reimbursement of expenditures described in that section is hereby established as follows:

(1) For expenditures identified in the decree entered by the United States District Court for the District of Columbia on July 21, 1983, in the case of State of Connecticut v. Heckler, No. 81-2237, and allowed by the Secretary of Health and Human Services prior to the date of the enactment of this Act, payment shall be made, by supplemental grant award or otherwise, within 30 days after the date of the enactment of this Act; and

(2) for any other expenditure described in such section 136 which was identified in such decree or in any other decree entered by a Federal court in a suit (with respect to such an expenditure) filed prior to September 30, 1982, payment shall be made, by supplemental grant award or otherwise, as soon as the expenditure or portion thereof involved is finally determined by the Secretary to be an allowable claim under the substantive provisions of the applicable title of the Social Security Act.

**MODIFICATION OF REQUIREMENTS FOR WORK SUPPLEMENTATION  
PROGRAM**

SEC. 2638. (a)(1) Section 414(b)(6) of the Social Security Act is amended—

(A) by inserting "(A)" before "may"; and

(B) by inserting ", and (B) during one or more of the first nine months of an individual's employment pursuant to a program under this section, may apply to the wages of the individual the provisions of section 402(a)(8)(A)(iv) without regard to the provisions of (B)(ii)(II) of such section" before the period.

(2) Section 414(c)(3) of such Act is amended—

(A) by inserting "or" after the semicolon in subparagraph (A);

(B) by striking out "a public or nonprofit entity" in subparagraph (B) and inserting in lieu thereof "any other employer";

(C) by striking out "; or" in subparagraph (B) and inserting in lieu thereof a period; and

(D) by striking out subparagraph (C).

(3) Section 414(d) of such Act is amended—

(A) by striking out "for any quarter for expenditures incurred in operating" and inserting in lieu thereof "for expenditures incurred in making payments to individuals and employers under"; and

(B) by striking out all after "equal to the" and inserting in lieu thereof "amount which would otherwise be payable under such section if the family of each individual employed in the program established in such State under this section had received the maximum amount of aid payable under the State plan to such a family with no income (without regard to adjustments under subsection (b) of this section) for a period of months equal to the lesser of (1) nine months, or (2) the number





of months in which such individual was employed in such program.”

(4) Section 414(h) of such Act is amended by inserting “(except during any period in which such individual is employed under such work supplementation program)” before the period.

(b) Section 51(c)(2) of the Internal Revenue Code of 1954 is amended to read as follows:

“(2) ON-THE-JOB TRAINING AND WORK SUPPLEMENTATION PAYMENTS.—

“(A) EXCLUSION FOR EMPLOYERS RECEIVING ON-THE-JOB TRAINING PAYMENTS.—The term ‘wages’ shall not include any amounts paid or incurred by an employer for any period to any individual for whom the employer receives federally funded payments for on-the-job training of such individual for such period.

“(B) REDUCTION FOR WORK SUPPLEMENTATION PAYMENTS TO EMPLOYERS.—The amount of wages which would (but for this subparagraph) be qualified wages under this section for an employer with respect to an individual for a taxable year shall be reduced by an amount equal to the amount of the payments made to such employer (however utilized by such employer) with respect to such individual for such taxable year under a program established under section 414 of the Social Security Act.”

(c)(1) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply with respect to payments made on or after the date of the enactment of this Act.

3-YEAR EXTENSION OF PROVISIONS FOR DISREGARDING IN-KIND ASSISTANCE

SEC. 2639. (a) Section 402(a)(36) of the Social Security Act is amended to read as follows:

“(36) provide, at the option of the State, that in making the determination for any month under paragraph (7), the State agency shall not include as income any support or maintenance assistance furnished to or on behalf of the family which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support and maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which is (A) assistance furnished in kind by a private nonprofit agency, or (B) assistance furnished by a supplier of home heating oil or gas, by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.”

(b) Section 1612(b)(13) of such Act is amended to read as follows:

“(13) any support or maintenance assistance furnished to or on behalf of such individual (and spouse if any) which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support or maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which is (A) assistance



furnished in kind by a private nonprofit agency, or (B) assistance furnished by a supplier of home heating oil or gas, by an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.”

(c)(1) Section 545 of the Surface Transportation Assistance Act of 1982 is amended by striking out subsections (a), (b), and (c).

(2) Section 404 of the Social Security Amendments of 1983 is repealed.

(d) The amendments made by this section shall be effective with respect to months which begin after September 30, 1984; but sections 402(a)(36) and 1612(b)(13) of the Social Security Act (as amended by subsections (a) and (b) of this section) shall be effective only with respect to months which end before October 1, 1987.

PARENTS AND SIBLINGS OF DEPENDENT CHILD INCLUDED IN AFDC  
FAMILY; CHILD SUPPORT PAYMENTS

SEC. 2640. (a) Section 402(a) of the Social Security Act (as amended by section 2624 of this Act) is further amended—

(1) by striking out “and” at the end of paragraph (36);

(2) by striking out the period at the end of paragraph (37) and inserting in lieu thereof “; and”; and

(3) by inserting immediately after paragraph (37) the following new paragraphs:

“(38) provide that in making the determination under paragraph (7) with respect to a dependent child and applying paragraph (8), the State agency shall (except as otherwise provided in this part) include—

“(A) any parent of such child, and

“(B) any brother or sister of such child, if such brother or sister meets the conditions described in clauses (1) and (2) of section 406(a), if such parent, brother, or sister is living in the same home as the dependent child, and any income of or available for such parent, brother, or sister shall be included in making such determination and applying such paragraph with respect to the family (notwithstanding section 205(j), in the case of benefits provided under title II); and

“(39) provide that in making the determination under paragraph (7) with respect to a dependent child whose parent or legal guardian is under the age selected by the State pursuant to section 406(a)(2), the State agency shall (except as otherwise provided in this part) include any income of such minor’s own parents or legal guardians who are living in the same home as such minor and dependent child, to the same extent that income of a stepparent is included under paragraph (31).”

(b)(1) Section 457(b) of such Act is amended by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and by inserting immediately before the paragraph redesignated as paragraph (2) the following new paragraph:

“(1) the first \$50 of such amounts as are collected periodically which represent monthly support payments shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;”





(2) Section 457(b) of such Act, as amended by paragraph (1) of this subsection, is further amended—

(A) by inserting “which are in excess of any amount paid to the family under paragraph (1) and” after “periodically” in paragraph (2);

(B) by striking out “paragraph (1)” in paragraph (3) and inserting in lieu thereof “paragraph (2)”; and

(C) by striking out “paragraphs (1) and (2)” in paragraph (4) and inserting in lieu thereof “paragraphs (1), (2), and (3)”.

(c) Section 402(a)(8)(A) of such Act is amended by striking out “and” after the semicolon at the end of clause (iv), and by adding after clause (v) the following new clause:

“(vi) shall disregard the first \$50 of any child support payments received in such month with respect to the dependent child or children in any family applying for or receiving aid to families with dependent children (including support payments collected and paid to the family under section 457(b)); and”.

#### CWEP WORK FOR FEDERAL AGENCIES

SEC. 2641. (a) Section 409(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

“(4)(A) Participants in community work experience programs under this section may, subject to subparagraph (B), perform work in the public interest (which otherwise meets the requirements of this section) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

“(B) The State agency shall provide appropriate workers’ compensation and tort claims protection to each participant performing work for a Federal office or agency pursuant to subparagraph (A) on the same basis as such compensation and protection are provided to other participants in community work experience programs in the State.”.

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

#### EARNED INCOME OF FULL-TIME STUDENTS

SEC. 2642. (a) Section 402(a)(18) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: “, except that in determining the total income of the family the State may exclude any earned income of a dependent child who is a full-time student, in such amounts and for such period of time (not to exceed 6 months) as the State may determine”.

(b) Section 402(a)(8)(A) of such Act (as amended by section 2640(c) of this Act) is further amended by striking out “and” after the semicolon at the end of clause (v), and by adding after clause (vi) the following new clause:

“(vii) may disregard all or any part of the earned income of a dependent child who is a full-time student and who is applying for aid to families with dependent children, but only if the earned income of such child is excluded for such



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month in determining the family's total income under paragraph (18); and".

(c) The amendments made by this section shall become effective June 1, 1984.

**PART 3—GENERAL EFFECTIVE DATE**

**GENERAL EFFECTIVE DATE**

SEC. 2646. Except as otherwise specifically provided in this subtitle, the provisions of parts 1 and 2 and the amendments made thereby shall take effect on October 1, 1984.

**Subtitle C—Implementation of Grace  
Commission Recommendations**

**INCOME AND ELIGIBILITY VERIFICATION PROCEDURES**

SEC. 2651. (a) Part A of title XI of the Social Security Act (as amended by section 2630 of this Act) is further amended by adding at the end thereof the following new section:

**"INCOME AND ELIGIBILITY VERIFICATION SYSTEM**

"SEC. 1137. (a) In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system under which—

"(1) the State shall require, as a condition of eligibility for benefits under any program listed in subsection (b), that each applicant for or recipient of benefits under that program furnish to the State his social security account number (or numbers, if he has more than one such number), and the State shall utilize such account numbers in the administration of that program so as to enable the association of the records pertaining to the applicant or recipient with his account number;

"(2) wage information from agencies administering State unemployment compensation laws available pursuant to section 3304(a)(16) of the Internal Revenue Code of 1954, wage information reported pursuant to paragraph (3) of this subsection, and wage, income, and other information from the Social Security Administration and the Internal Revenue Service available pursuant to section 6103(l)(7) of such Code, shall be requested and utilized to the extent that such information may be useful in verifying eligibility for, and the amount of, benefits available under any program listed in subsection (b), as determined by the Secretary of Health and Human Services (or, in the case of the unemployment compensation program, by the Secretary of Labor, or, in the case of the food stamp program, by the Secretary of Agriculture);

"(3) employers in such State are required, effective September 30, 1988, to make quarterly wage reports to a State agency (which may be the agency administering the State's unemployment compensation law) except that the Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) may waive the provisions of this paragraph if he determines that the State has in effect ar





alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in paragraph (2);

"(4) the State agencies administering the programs listed in subsection (b) adhere to standardized formats and procedures established by the Secretary of Health and Human Services (in consultation with the Secretary of Agriculture) under which—

"(A) the agencies will exchange with each other information in their possession which may be of use in establishing or verifying eligibility or benefit amounts under any other such program;

"(B) such information shall be made available to assist in the child support program under part D of title IV of this Act, and to assist the Secretary of Health and Human Services in establishing or verifying eligibility or benefit amounts under titles II and XVI of this Act, but subject to the safeguards and restrictions established by the Secretary of the Treasury with respect to information released pursuant to section 6103(l) of the Internal Revenue Code of 1954; and

"(C) the use of such information shall be targeted to those uses which are most likely to be productive in identifying and preventing ineligibility and incorrect payments;

"(5) adequate safeguards are in effect so as to assure that—

"(A) the information exchanged by the State agencies is made available only to the extent necessary to assist in the valid administrative needs of the program receiving such information, and the information released pursuant to section 6103(l) of the Internal Revenue Code of 1954 is only exchanged with agencies authorized to receive such information under such section 6103(l); and

"(B) the information is adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Secretary of Health and Human Services, or, in the case of the unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture, or in the case of information released pursuant to section 6103(l) of the Internal Revenue Code of 1954, the Secretary of the Treasury;

"(6) all applicants for and recipients of benefits under any such program shall be notified at the time of application, and periodically thereafter, that information available through the system will be requested and utilized; and

"(7) accounting systems are utilized which assure that programs providing data receive appropriate reimbursement from the programs utilizing the data for the costs incurred in providing the data.

"(b) The programs which must participate in the income verification system are—

"(1) the aid to families with dependent children program under part A of title IV of this Act;

"(2) the medicaid program under title XIX of this Act;

"(3) the unemployment compensation program under section 3304 of the Internal Revenue Code of 1954;

"(4) the food stamp program under the Food Stamp Act of 1977; and



"(5) any State program under a plan approved under title I, X, XIV, or XVI of this Act.

"(c)(1) In order to protect applicants for and recipients of benefits under the programs identified in subsection (b), or under the supplemental security income program under title XVI, from the improper use of information obtained from the Secretary of the Treasury under section 6103(1)(7)(B) of the Internal Revenue Code of 1954, no Federal, State, or local agency receiving such information may terminate, deny, suspend, or reduce any benefits of an individual until such agency has taken appropriate steps to independently verify information relating to—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has (or had) access to such asset or income for his own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(2) Such individual shall be informed by the agency of the findings made by the agency on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program."

(b)(1) Section 402(a)(25) of the Social Security Act is amended to read as follows:

"(25) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act;"

(2) Section 402(a)(29) of such Act is repealed.

(3) Section 411 of such Act is repealed.

(c) Section 1902(a) of the Social Security Act (as amended by section 2367 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (44);

(2) by striking out the period at the end of paragraph (45) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (45) the following new paragraph:

"(46) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act."

(d) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The State agency charged with the administration of the State law shall provide that information shall be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act."

(e) Section 2(a) of the Social Security Act is amended—

(1) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following new paragraph:

"(11) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act."

(f) Section 1002(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (12); and





(2) by inserting before the period at the end thereof the following: “; and (14) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act”.

(g) Section 1402(a) of the Social Security Act is amended—

(1) by striking out “and” at the end of clause (11); and  
(2) by inserting before the period at the end thereof the following: “; and (13) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act”.

(h) Section 1602(a) of the Social Security Act (as in effect with respect to Puerto Rico, Guam, and the Virgin Islands) is amended—

(1) by striking out “and” at the end of paragraph (13);  
(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof “; and”; and  
(3) by inserting after paragraph (14) the following new paragraph:

“(15) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.”.

(i) Section 11(e)(19) of the Food Stamp Act of 1977 is amended to read as follows:

“(19) that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of the Social Security Act and that any additional information available from agencies administering State unemployment compensation laws under the provisions of section 303(d) of the Social Security Act shall be requested and utilized by the State agency (described in section 3(n)(1) of this Act) to the extent permitted under the provisions of section 303(d) of the Social Security Act.”.

(j) Section 1631(e)(1)(B) of the Social Security Act is amended by adding at the end thereof the following: “For this purpose and for purposes of federally administered supplementary payments of the type described in section 1616(a) of this Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), the Secretary shall, as may be necessary, request and utilize information available pursuant to section 6103(l)(7) of the Internal Revenue Code of 1954, and any information which may be available from State systems under section 1137 of this Act, and shall comply with the requirements applicable to States (with respect to information available pursuant to section 6103(l)(7)(B) of such Code) under subsections (a) (6) and (c) of such section 1137.”.

(k)(1) Section 6103(l)(7) of the Internal Revenue Code of 1954 is amended to read as follows:

“(7) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS UNDER THE SOCIAL SECURITY ACT OR THE FOOD STAMP ACT OF 1977.—

“(A) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a)



or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

“(B) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the Internal Revenue Service files to any Federal, State, or local agency administering a program listed in subparagraph (D).

“(C) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

“(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

“(i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

“(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;

“(iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66);

“(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

“(v) unemployment compensation provided under a State law described in section 3304 of this Code;

“(vi) assistance provided under the Food Stamp Act of 1977; and

“(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66).”

(2) Section 6103(a)(2) of such Code is amended by striking out “or of any local child support enforcement agency” and inserting in lieu thereof “, any local child support enforcement agency, or any local agency administering a program listed in subsection (1)(7)(D)”.

(1)(1) The amendments made by subsections (j) and (k) shall become effective on the date of the enactment of this Act.

(2) Except as otherwise specifically provided, the amendments made by subsections (a) through (i) shall become effective on April 1, 1985. In the case of any State which submits a plan describing a good faith effort by such State to come into compliance with the requirements of such subsections, the Secretary of Health and Human Services (or, in the case of the State unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture) may by waiver grant a





delay in the effective date of such subsections, except that no such waiver may delay the effective date of section 1137(c) of the Social Security Act (as added by subsection (a) of this section), or delay the effective date of any other provision of or added by this section beyond September 30, 1986.

COLLECTION AND DEPOSIT OF PAYMENTS TO EXECUTIVE AGENCIES

SEC. 2652. (a)(1) Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new section:

“§ 3720. Collection of payments

“(a) Each head of an executive agency (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely deposit of money by officials and agents of such agency in accordance with section 3302, and for the collection and timely deposit of sums owed to such agency by the use of such procedures as withdrawals and deposits by electronic transfer of funds, automatic withdrawals from accounts at financial institutions, and a system under which financial institutions receive and deposit, on behalf of the executive agency, payments transmitted to post office lockboxes. The Secretary is authorized to collect from any agency not complying with the requirements imposed pursuant to the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund caused by such noncompliance.

“(b) The head of an executive agency shall pay to the Secretary of the Treasury charges imposed pursuant to subsection (a). Payments shall be made out of amounts appropriated or otherwise made available to carry out the program to which the collections relate. The amounts of the charges paid under this subsection shall be deposited in the Cash Management Improvements Fund established by subsection (c).

“(c) There is established in the Treasury of the United States a revolving fund to be known as the ‘Cash Management Improvements Fund’. Sums in the fund shall be available without fiscal year limitation for the payment of expenses incurred in developing the methods of collection and deposit described in subsection (a) of this section and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.”.

(2) The analysis of subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new item:

“3720. Collection of payments.”.

(3) The Secretary of the Treasury shall prescribe regulations, including regulations under section 3720 of title 31, United States Code, designed to achieve by October 1, 1986, full implementation of the purposes of this subsection.

(b)(1) Subsection (c) of section 3302 of title 31, United States Code, is amended—

(A) by inserting “(1)” after the subsection designation;



(B) by striking out “, but not later than the 30th day after the custodian receives the money,”;

(C) by inserting after the first sentence the following new sentence: “Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money,”; and

(D) by adding at the end thereof the following new paragraph:

“(2) The Secretary of the Treasury may by regulation prescribe that a person having custody or possession of money required by this subsection to be deposited shall deposit such money during a period of time that is greater or lesser than the period of time specified by the second sentence of paragraph (1).”.

(2) The amendments made by this subsection shall become effective January 1, 1985.

#### COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES

SEC. 2653. (a)(1) Subchapter II of chapter 37 of title 31, United States Code, as amended by section 2652(a)(1) of this Act, is further amended by adding at the end thereof the following new section:

##### “§ 3720A. Reduction of tax refund by amount of debt

“(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any OASDI overpayment and past-due support) by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury of the amount of such debt.

“(b) No Federal agency may take action pursuant to subsection (a) with respect to any debt until such agency—

“(1) notifies the person incurring such debt that such agency proposes to take action pursuant to such paragraph with respect to such debt;

“(2) gives such person at least 60 days to present evidence that all or part of such debt is not past-due or not legally enforceable;

“(3) considers any evidence presented by such person and determines that an amount of such debt is past due and legally enforceable; and

“(4) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under paragraph (3) with respect to such debt is valid and that the agency has made reasonable efforts to obtain payment of such debt.

“(c) Upon receiving notice from any Federal agency that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

“(d) The Secretary of the Treasury shall issue regulations prescribing the time or times at which agencies must submit notices of past-due legally enforceable debts, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by subsection (c) may be applied and the fee that an





agency must pay to reimburse the Secretary of the Treasury for the full cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

"(e) Any Federal agency receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

"(f) For purposes of this section—

"(1) the term 'Federal agency' means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code);

"(2) the term 'past-due support' means any delinquency subject to section 464 of the Social Security Act; and

"(3) the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act".

(2) The analysis of subchapter II of chapter 37 of title 31, United States Code, as amended by section 2652(a)(2) of this Act, is further amended by adding at the end thereof the following new item: "3720A. Reduction of tax refund by amount of debt."

(b)(1) Section 6402 of the Internal Revenue Code of 1954 (relating to authority to make credits or refunds) is amended by adding at the end thereof the following new subsections:

"(d) COLLECTION OF DEBTS OWED TO FEDERAL AGENCIES.—

"(1) IN GENERAL.—Upon receiving notice from any Federal agency that a named person owes a past-due legally enforceable debt (other than any OASDI overpayment and past-due support subject to the provisions of subsection (c)) to such agency, the Secretary shall—

"(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such agency; and

"(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

"(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 402(a)(26) of the Social Security Act and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). If the Secretary receives notice from a Federal agency or agencies of more than one debt subject to paragraph (1) that is owed by a person to such agency or agencies, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.



"(3) DEFINITIONS.—For purposes of this subsection the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.

"(e) REVIEW OF REDUCTIONS.—No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c) or (d). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equitable, or administrative action against the Federal agency to which the amount of such reduction was paid.

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).

"(g) CROSS REFERENCE.—For procedures relating to agency notification of the Secretary, see section 3721 of title 31, United States Code."

(2) Subsection (a) of section 6402 of such Code is amended by striking out "subsection (c)" and inserting in lieu thereof "subsections (c) and (d)".

(3)(A) Subsection (l) of section 6103 of such Code (relating to confidentiality and disclosure of returns and information), as amended by section 453 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(10) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(C) OR 6402(D).—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon receiving a written request, disclose to officers and employees of an agency seeking a reduction under section 6402(c) or 6402(d)—

"(i) the fact that a reduction has been made or has not been made under such subsection with respect to any person;

"(ii) the amount of such reduction; and

"(iii) taxpayer identifying information of the person against whom a reduction was made or not made.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from reduction made under section 6402(c) or section 6402(d)."

(B)(i) Section 6103(p)(3)(A) of such Code (relating to procedure and recordkeeping), as so amended, is amended by striking out "or (9)" and inserting in lieu thereof "(9), or (10)".

(ii) Section 6103(p)(4) of such Code, as so amended, is amended by striking out "(1) (1), (2), (3), or (5)" and inserting in lieu thereof "(1) (1), (2), (3), (5), or (10)".





(iii) Section 6103(p)(4)(F)(ii) of such Code, as so amended, is amended by striking out “(l) (1), (2), (3), or (5)” and inserting in lieu thereof “(l) (1), (2), (3), (5), or (10)”.

(4) Section 7213(a)(2) of such Code (relating to unauthorized disclosure of information), as so amended, is amended by striking out “(l) (6), (7), (8), or (9)” and inserting in lieu thereof “(l) (6), (7), (8), (9), or (10)”.

(c) The amendments made by this section shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985, and before January 1, 1988.

## Subtitle D—Technical Corrections

### CHANGES IN OASDI PROVISIONS NECESSITATED BY THE 1983 AMENDMENTS

SEC. 2661. (a) Section 201(l)(3)(B)(i) of the Social Security Act is amended by inserting “Insurance” after “Survivors”.

(b)(1) Section 202(c)(1) of such Act is amended (in the matter appearing between subparagraphs (D) and (E) of such section)—

(A) by striking out all that follows “has attained” and precedes “, the first month” in clause (i) and inserting in lieu thereof “retirement age (as defined in section 216(l))”;

(B) by striking out all that follows “has not attained” and precedes “, or” in clause (ii)(I) and inserting in lieu thereof “retirement age (as defined in section 216(l))”; and

(C) by striking out “to which” in the matter following clause (ii) and inserting in lieu thereof “in which”.

(2) Section 202(c)(5)(A) of such Act is amended by striking out “classes (i) and (ii)” and inserting in lieu thereof “clauses (i) and (ii)”.

(c)(1) Section 202(e)(2)(A) of such Act is amended by striking out all that follows “subsection (q),” and precedes “subparagraph (D) of this paragraph” and inserting in lieu thereof “paragraph (7) of this subsection, and”.

(2) Section 202(e)(2)(C) of such Act is amended—

(A) by striking out the period immediately after “deceased individual”; and

(B) by inserting a closing parenthesis after “paragraph (3) of such subsection (w)”.

(3) Paragraph (7) of section 202(e) of such Act is amended by striking out “paragraph (2)(B),” and inserting in lieu thereof “paragraph (2)(D),”.

(d)(1) Section 202(f)(1)(C)(ii) of such Act is amended by striking out all that follows “attained” and precedes “, and” and inserting in lieu thereof “retirement age (as defined in section 216(l))”.

(2) Section 202(f)(2)(A) of such Act is amended by striking out “paragraph (3)(B),” and inserting in lieu thereof “paragraph (3)(D),”.

(3) Section 202(f)(3)(C) of such Act is amended by striking out the period immediately after “deceased individual”.

(e) Section 202(q)(9)(B)(i) of such Act is amended by striking out “section 216(a)” and inserting in lieu thereof “section 216(l)”.

(f) Section 202(x) of such Act is amended by adding at the beginning thereof the following heading:



“Limitation on Payments to Prisoners”.

(g)(1)(A) Section 203(d) of such Act is amended—

(i) by striking out “on seven or more different calendar days of which he engaged” in paragraph (1)(A) and inserting in lieu thereof “for more than forty-five hours of which such individual engaged”; and

(ii) by striking out “on seven or more different calendar days” in paragraph (2) and inserting in lieu thereof “for more than forty-five hours”.

(B) The amendments made by subparagraph (A) shall apply only with respect to months beginning with the second month after the month in which this Act is enacted.

(2)(A) Section 203(f) of such Act is amended by adding at the end thereof the following new paragraph:

“(9) For purposes of paragraphs (3), (5)(D)(i), and (8)(D), the term ‘retirement age (as defined in section 216(1))’, with respect to any individual entitled to monthly insurance benefits under section 202, means the retirement age (as so defined) which is applicable in the case of old-age insurance benefits, regardless of whether or not the particular benefits to which the individual is entitled (or the only such benefits) are old-age insurance benefits.”.

(B) The amendment made by subparagraph (A) shall be effective as though it had been enacted on April 20, 1983, as a part of section 201 of the Social Security Amendments of 1983.

(h) Section 205(r) of such Act is amended—

(1) by striking out “(r)(3)(A) and (r)(3)(B)” in paragraph (4) and inserting in lieu thereof “subparagraphs (A) and (B) of paragraph (3)”;

(2) by striking out “the Act” in paragraph (7) and inserting in lieu thereof “this Act”; and

(3) by striking out the heading and inserting in lieu thereof the following:

“Use of Death Certificates to Correct Program Information”.

(i)(1) Section 209(e) of such Act is amended by striking out the semicolon after “Act of 1974”.

(2) The next to last unnumbered paragraph of section 209 of such Act is amended by striking out “section 414(h)(2) of such Code” in subdivision (2) and inserting in lieu thereof “section 414(h)(2) of such Code where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise)”.

(j) Section 210(a) of such Act, in the matter preceding paragraph (1), is amended by striking out the matter which follows “such affiliate” and precedes “or (C)” and the matter which follows “section 233” and precedes “except”, and by inserting in lieu thereof a comma and a semicolon, respectively.

(k)(1) Section 215(a)(7)(B)(ii)(I) of such Act is amended by striking out “who initially become eligible for old-age or disability insurance benefits” and inserting in lieu thereof “who become eligible (as defined in paragraph (3)(B)) for old-age insurance benefits (or became eligible as so defined for disability insurance benefits before attaining age 62)”.





(2) Section 215(a)(7)(C)(ii) of such Act is amended by striking out "survivors" and inserting in lieu thereof "survivor's".

(3) Section 215(f)(9)(B)(i) of such Act is amended by striking out "as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5)" and inserting in lieu thereof "as though the recomputed primary insurance amount were being computed under subsection (a)(7) or (d)(5)".

(4) Section 215(i)(5)(A) of such Act is amended by adding at the end thereof the following new sentence: "Any amount so increased that is not a multiple of \$0.10 shall be decreased to the next lower multiple of \$0.10."

(5) Section 215(i)(5)(B) of such Act is amended—

(A) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) multiplying such quotient by 100 so as to yield such applicable additional percentage (which shall be rounded to the nearest one-tenth of 1 percent);";

(B) by striking out "ending with such subsequent calendar year" in clauses (iv) and (v) and inserting in lieu thereof "ending with the year before such subsequent calendar year"; and

(C) by striking out "initially became eligible for an old-age or disability insurance benefit" in clause (v) and inserting in lieu thereof "became eligible (as defined in subsection (a)(3)(B)) for the old-age or disability insurance benefit that is being increased under this subsection".

(1)(1) Section 216(f) of such Act is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (C) of section 202(c)(1), a divorced husband shall be deemed not to be married throughout the month which he becomes divorced."

(2) Section 216(h)(3)(A)(i) of such Act (as in effect after the application of section 2662(c)(1) of this Act) is amended by striking out "(as defined in section 216(l))" and inserting in lieu thereof "(as defined in subsection (l))".

(3) Section 216(i)(2) of such Act (as amended by section 2662(c)(1) of this Act) is amended by striking out "(as defined in section 216(l))" in subparagraphs (B) and (D) and inserting in lieu thereof "(as defined in subsection (l))".

(m) Subparagraph (B) of section 223(c)(1) of such Act is amended by moving clause (iii) two ems to the left, and by moving the preceding provisions of such subparagraph two ems to the right, so that the left margin of such subparagraph and its clauses is indented four ems and is aligned with the margin of subparagraph (A) of such section.

(n) Section 229(b) of such Act is amended by adding at the end thereof the following new sentence: "Additional adjustments may be made in the amounts so authorized to be appropriated to the extent that the amounts transferred in accordance with clauses (i) and (ii) of section 151(b)(3)(B) of the Social Security Amendments of 1983 with respect to wages deemed to have been paid in 1983 were in excess of or were less than the amount which the Secretary, on the basis of appropriate data, determines should have been so transferred."

(o)(1) Subsection (f) of section 86 of the Internal Revenue Code of 1954 is amended by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:



“(1) section 37(c)(3)(A) (relating to reduction for amounts received as pension or annuity),”.

(2) Subsection (a) of section 134 of such Code is amended by striking out paragraphs (6) and (7) and by redesignating paragraph (8) as paragraph (6).

(3) Effective January 1, 1984, subparagraph (B) of section 3121(v)(1) of such Code is amended to read as follows:

“(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).”.

(4) Effective January 1, 1985, subparagraph (B) of section 3306(r)(1) of such Code is amended to read as follows:

“(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).”.

(5) Section 6334(c) of such Code is amended by inserting “(including section 207 of the Social Security Act)” immediately after “any other law of the United States”.

#### CHANGES IN TEXT OF THE 1983 AMENDMENTS

SEC. 2662. (a) Section 101(d) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out “remuneration paid” and inserting in lieu thereof “service performed”.

(b) Section 112(f) of such Amendments is amended by inserting “of such Act” after “section 201(a)”.

(c) Section 201(c) of such Amendments is amended—

(1) by inserting “the” immediately before “age of 65” in paragraph (1); and

(2) by inserting “the” immediately before “age of sixty-five” in paragraph (3).

(d) Section 301(a)(5) of such Amendments is amended by striking out “Section 202(c)” and inserting in lieu thereof “Effective with respect to monthly insurance benefits for months after December 1984 (but only on the basis of applications filed on or after January 1, 1985), section 202(c)”.

(e) Section 305(d)(2) of such Amendments is amended by inserting “each place it appears” immediately before “in subsection (c)(4)(C)”.

(f)(1) Section 422A(c)(9) of the Internal Revenue Code of 1954 (relating to special rule when disabled) is amended by striking out “section 105(d)(4)” and inserting in lieu thereof “section 37(e)(3)”.

(2)(A) Section 324(d)(1) of the Social Security Amendments of 1983 is amended by adding at the end thereof the following new sentence: “For purposes of applying such amendments to remuneration paid after December 31, 1983, which would have been taken into account before January 1, 1984, if such amendments had applied to periods before January 1, 1984, such remuneration shall be taken into account when paid (or, at the election of the payor, at the time which would be appropriate if such amendments had applied).”.

(B) Section 324(d)(2) of such Amendments is amended by adding at the end thereof the following new sentence: “For purposes of applying such amendments to remuneration paid after December 31, 1984, which would have been taken into account before January 1, 1985, if such amendments had applied to periods before January 1, 1985, such remuneration shall be taken into account when paid (or,





at the election of the payor, at the time which would be appropriate if such amendments had applied).”.

(C) Section 324(d)(4) of such Amendments is amended by adding at the end thereof the following new sentence: “For purposes of this paragraph, any plan or agreement to make payments described in paragraph (2), (3), or (13)(A)(iii) of section 3121(a) of such Code (as in effect on the day before the date of the enactment of this Act) shall be treated as a nonqualified deferred compensation plan.”.

(g) Section 327(d) of such Amendments (relating to codification of Rowan decision with respect to meals and lodging) is amended to read as follows:

“(d)(1) The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1983.

“(2) The amendments made by subsection (b) and subsection (c)(4) shall apply to remuneration (other than amounts excluded under section 119 of the Internal Revenue Code of 1954) paid after March 4, 1983, and to any such remuneration paid on or before such date which the employer treated as wages when paid.

“(3) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall apply to remuneration paid after December 31, 1984.”.

(h)(1) Section 338(b) of such Amendments is amended by adding at the end thereof the following new paragraph:

“(6) The provisions of section 8344 of title 5, United States Code, shall not apply to service by an individual as a member of the Panel.”.

(2) The amendment made by this subsection shall take effect on January 1, 1984.

(i) Section 339(b) of such Amendments is amended to read as follows:

“(b) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

“(h) For provisions relating to limitation on payments to prisoners, see section 202(x).”.

(j) Section 111(e) of such Amendments is amended by inserting “Budget” before “Reconciliation”.

OTHER TECHNICAL CORRECTIONS IN THE SOCIAL SECURITY ACT AND  
RELATED PROVISIONS

SEC. 2663. (a)(1)(A) The fourth sentence of section 201(d) of the Social Security Act is amended—

(i) by striking out “the Second Liberty Bond Act, as amended,” and inserting in lieu thereof “chapter 31 of title 31, United States Code,”; and

(ii) by striking out “public-debt obligation” and inserting in lieu thereof “public-debt obligations”.

(B) Section 201(g)(1)(B) of such Act is amended by striking out “clauses” in the first sentence and inserting in lieu thereof “clause”.

(2)(A)(i) Section 202(d)(1) of such Act, in clause (ii) in the matter which follows subparagraph (C) and precedes subparagraph (D), is amended by striking out “paragraphs” and “paragraph” and inserting in lieu thereof “subparagraphs” and “subparagraph”, respectively.

(ii) Section 202(d)(1)(G) of such Act is amended—

(I) by striking out the comma after “age of 18”;



(II) by striking out "the age of 22," and inserting in lieu thereof "the age of 22—";

(III) by striking out ", or, subject to section 223(e), the termination month (and for purposes" and inserting in lieu thereof the following:

"(i) the termination month, subject to section 223(e) (and for purposes";

(IV) by striking out "after the 15 months" and all that follows down through "such earlier month." and inserting in lieu thereof the following:

"after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity),

or (if later) the earlier of—

"(ii) the first month during no part of which he is a full-time elementary or secondary school student, or

"(iii) the month in which he attains the age of 19, but only if he was not under a disability (as so defined) in such earlier month."; and

(V) by indenting all of clause (i) (as designated and amended by the preceding provisions of this subparagraph) four ems, so as to align its left margin with the margins of clauses (ii) and (iii) (as so designated).

(iii) The second sentence of section 202(d)(7)(A) of such Act is amended by striking out "the date of the enactment of this paragraph" and inserting in lieu thereof "the effective date of this sentence".

(B) Section 202(e)(1) of such Act is amended—

(i) by striking out the first comma after "age 60" in the matter following subparagraph (F)(ii); and

(ii) by striking out "he engages" in the last sentence and inserting in lieu thereof "she engages".

(C) Section 202(f)(1) of such Act is amended by striking out the first comma after "age 60" in the matter following subparagraph (F)(ii).

(D) Section 202(f)(3)(D)(i) of such Act is amended by striking out the semicolon after "applicable".

(E) Section 2202(a)(1)(B) of Public Law 97-35 is amended by striking out "as".

(F)(i) Section 202(q)(3)(G) of the Social Security Act is amended by striking out "as if the period" and inserting in lieu thereof "if the period".

(ii) Section 202(q)(7)(E) of such Act is amended by striking out "he attained retirement age" and inserting in lieu thereof "she or he attained retirement age".

(G) Section 202(t)(4)(E) of such Act is amended—

(i) by inserting "of 1937 or 1974" after "Railroad Retirement Act" where it first appears; and

(ii) by inserting before the semicolon at the end thereof the following: "of 1937 or section 18(2) of the Railroad Retirement Act of 1974".

(H) Section 202(u)(1)(B) of such Act is amended by striking out ", 112, or 113".

(3)(A) Section 203(a)(8) of such Act is amended by adding a period at the end thereof.





(B) Section 203(d)(2) of such Act is amended by striking out "an individual who is entitled" and inserting in lieu thereof "an individual under the age of seventy who is entitled".

(C) Section 203(f)(5)(B)(ii) of such Act is amended by striking out "702(a)(9)" and inserting in lieu thereof "702(a)(8)".

(D) Section 203(f)(8) of such Act is amended by indenting subparagraphs (B) and (C) two additional ems (for a total indentation of four ems) so as to align their left margins with the margins of subparagraphs (A) and (D).

(4)(A) Section 205(c)(5)(D) of such Act is amended by inserting "of 1937 or 1974" after "Railroad Retirement Act" each place it appears.

(B) Section 205(c)(5)(I) of such Act is amended by inserting before the semicolon at the end thereof the following: "or section 7(b)(7) of the Railroad Retirement Act of 1974".

(C) Section 205(e) of such Act is amended by striking out "on order" and inserting in lieu thereof "an order".

(D) Section 205(h) of such Act is amended by striking out "section 24 of the Judicial Code of the United States" and inserting in lieu thereof "section 1331 or 1346 of title 28, United States Code,".

(E) Section 205(i) of such Act is amended by striking out all that follows "through" and precedes "and prior" and inserting in lieu thereof "the Fiscal Service of the Department of the Treasury,".

(F) Section 205(p)(1) of such Act is amended by striking out "section 1420(e) of the Internal Revenue Code" and inserting in lieu thereof "section 3122 of the Internal Revenue Code of 1954".

(5) Section 208 of such Act is amended by indenting paragraphs (f) through (h) two ems so as to align their left margins with the margins of paragraphs (a) through (e) (and by appropriately further indenting subdivisions (1), (2), and (3) of paragraph (g)).

(6)(A) Section 209 of such Act is amended—

(i) by indenting paragraphs (5) through (9) of subsection (a) two ems so as to align their left margins with the margins of the preceding paragraphs of such subsection;

(ii) by striking out "(p) Remuneration" and inserting in lieu thereof "(p)(1) Remuneration";

(iii) by striking out the period at the end of paragraph (p)(1) as redesignated by clause (ii) of this subparagraph and inserting in lieu thereof a semicolon;

(iv) by striking out "(p) Any contribution" and inserting in lieu thereof "(2) Any contribution"; and

(v) by indenting subsections (e), (f), and (k) through (r) two ems so as to align their left margins with the margins of subsections (a) through (d) and subsections (g), (h), and (j) (appropriately further indenting paragraphs (1) and (2) of subsection (f) and paragraphs (1) and (2) of subsection (m)).

(B) The seventh unnumbered paragraph from the end of section 209 of such Act (relating to remuneration for service performed as a member of a uniformed service) is amended by striking out "section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "chapter 3 and section 1009 of title 37, United States Code".

(7)(A) Section 210(a)(1) of such Act is amended by striking out "(A)" and all that follows down through "or (B)".

(B) Section 210(a)(7) of such Act is amended by indenting subparagraph (D) two additional ems (for a total indentation of four ems) so



as to align its left margin with the margins of subparagraphs (A) through (C).

(C) Section 210(a)(9) of such Act is amended by striking out "section 1532 of the Internal Revenue Code" and inserting in lieu thereof "section 3231 of the Internal Revenue Code of 1954".

(D) Section 210(a)(19) of such Act is amended by striking out the comma after "; or".

(E) Section 210(l)(2) of such Act is amended—

(i) by striking out "section 102 of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "paragraph (21) of section 101 of title 38, United States Code"; and

(ii) by striking out "such section" and inserting in lieu thereof "paragraph (22) of such section".

(F) Section 210(l)(3) of such Act is amended by striking out "such section 102" and inserting in lieu thereof "paragraph (23) of such section 101".

(G) Section 210(m) of such Act is amended—

(i) by striking out "a reserve component of a uniformed service as defined in section 102(3) of the Servicemen's and Veterans' Survivor Benefits Act" in the first sentence and inserting in lieu thereof "a reserve component as defined in section 101(27) of title 38, United States Code";

(ii) by inserting ", the National Oceanic and Atmospheric Administration Corps," after "Coast and Geodetic Survey" in the first sentence;

(iii) by striking out "military or naval" each place it appears in paragraph (5) and inserting in lieu thereof "military, naval, or air"; and

(iv) by striking out "Universal Military Training and Service Act" in paragraph (5)(B) and inserting in lieu thereof "Military Selective Service Act".

(8)(A) Section 211(a) of such Act is amended by striking out "chapter 1 of the Internal Revenue Code", "such chapter", and "section 183 of such code" in the matter preceding paragraph (1) and inserting in lieu thereof "subtitle A of the Internal Revenue Code of 1954", "such subtitle", and "section 702(a)(8) of such Code", respectively.

(B) Section 211(a)(3) of such Act is amended—

(i) by striking out "chapter 1 of the Internal Revenue Code" and inserting in lieu thereof "subtitle A of the Internal Revenue Code of 1954"; and

(ii) by inserting "or" before "(C)".

(C) Section 211(a)(4) of such Act is amended by striking out "section 23(s) of such code" and inserting in lieu thereof "section 172 of the Internal Revenue Code of 1954".

(D) Section 211(a) of such Act is further amended by striking out "702(a)(9)" in clauses (iii) and (iv) (in the matter following paragraph (12)) and inserting in lieu thereof in each instance "702(a)(8)".

(E) Section 211(b)(1) of such Act is amended by indenting subparagraphs (D), (G), (H), and (I) an additional two ems (for a total indentation of four ems) so as to align their left margins with the margins of the other subparagraphs of such section.

(F) Section 211(c) of such Act is amended by striking out "section 23 of the Internal Revenue Code" and inserting in lieu thereof "section 162 of the Internal Revenue Code of 1954".





(G) Section 211(c)(3) of such Act is amended by striking out "section 1532 of the Internal Revenue Code" and inserting in lieu thereof "section 3231 of the Internal Revenue Code of 1954".

(H) Section 211(d) of such Act is amended by striking out "supplement F of chapter 1 of the Internal Revenue Code" and inserting in lieu thereof "subchapter K of chapter 1 of the Internal Revenue Code of 1954".

(I) Section 211(e) of such Act is amended by striking out "chapter 1 of the Internal Revenue Code", "chapter 1 of such code", and "such chapter 1" and inserting in lieu thereof "subtitle A of the Internal Revenue Code of 1954", "subtitle A of such Code", and "such subtitle A", respectively.

(9)(A) Section 213(a)(1) of such Act is amended by striking out "means" and inserting in lieu thereof "mean".

(B) Section 213(a)(2)(B)(ii) of such Act is amended by striking out "equal to \$3,000" and inserting in lieu thereof "equal \$3,000".

(10)(A) Section 215(a)(1) of such Act is amended—

(i) by striking out "of such benefits" in subparagraph (B)(i) and inserting in lieu thereof "for such benefits";

(ii) by striking out "amounts" in subparagraph (B)(iii) and inserting in lieu thereof "amount"; and

(iii) by striking out "scetion 217" in subparagraph (C)(ii) and inserting in lieu thereof "section 217".

(B) Section 215(a)(4) of such Act is amended by indenting subparagraph (B) two ems so as to align its left margin with the margin of subparagraph (A) (and by appropriately further indenting clauses (i) and (ii) of such subparagraph (B)).

(C) Section 215(f)(2)(A) of such Act is amended by striking out "primary insurance account" and inserting in lieu thereof "primary insurance amount".

(D) Section 215(h) of such Act is amended—

(i) by adding at the beginning thereof the following heading: "Service of Certain Public Health Service Officers"; and

(ii) by striking out "Civil Service Commission" in paragraph (1) and inserting in lieu thereof "Director of the Office of Personnel Management".

(11)(A) Section 2203(d)(4) of Public Law 97-35 is amended by inserting after "at the end of paragraph (3)" the following: "(after and below subparagraph (C)(ii))".

(B) Section 216(i)(2)(F)(ii) of the Social Security Act is amended by striking out "enacted," in the matter immediately preceding subdivision (1) and inserting in lieu thereof "enacted—".

(12)(A) Section 217(d) of such Act is amended by indenting paragraphs (1) and (2) two ems.

(B) Section 217(e)(1) of such Act is amended by inserting "National Oceanic and Atmospheric Administration Corps," after "Coast and Geodetic Survey" in the last sentence.

(C) Section 217(f)(1) of such Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management".

(13) Section 218(i) of such Act is amended by striking out "subchapter A or E of chapter 9 of the Internal Revenue Code" and inserting in lieu thereof "chapter 21 and subtitle F of the Internal Revenue Code of 1954".

(14) Section 221(e) of such Act is amended by striking out "Federal Disability Trust Fund is charged" and inserting in lieu thereof "Federal Disability Insurance Trust Fund is charged".



(15)(A) Subsections (a) and (b)(1) of section 222 of such Act are amended by striking out “the Vocational Rehabilitation Act” each place it appears and inserting in lieu thereof “title I of the Rehabilitation Act of 1973”.

(B) Section 222(b)(3) of such Act is amended by striking out “equal” and inserting in lieu thereof “equals”.

(C) Section 222(b)(4) of such Act is amended by striking out “full-time student” and inserting in lieu thereof “full-time elementary or secondary school student”.

(16) Section 223(d)(2)(A) of such Act is amended by striking out “an individual” and inserting in lieu thereof “An individual”.

(17) Section 226(b) of such Act is amended (in the matter following paragraph (2)(C)) by striking out “part (A)” and inserting in lieu thereof “part A”.

(18) The last sentence of section 230(c) of such Act is amended by striking out “(3)(f)(3)” and inserting in lieu thereof “3(f)(3)”.

(b)(1) Section 302(b) of such Act is amended by striking out all that follows “through” and precedes “and prior” and inserting in lieu thereof “the Fiscal Service of the Department of the Treasury”.

(2) Section 303(a)(4) of such Act is amended by striking out “1606(b)” and inserting in lieu thereof “3305(b)”.

(3) Section 303(a)(5) of such Act (as amended by the 1983 Amendments) is amended—

(A) by striking out “1606(b)” and inserting in lieu thereof “3305(b)”;

(B) by striking out the punctuation mark immediately before the last proviso and inserting in lieu thereof a colon.

(4) Section 303(c) of such Act is amended by striking out “That” in paragraphs (1) and (2) and inserting in lieu thereof “that”.

(5) Section 303(e)(2)(A)(i) of such Act is amended by striking out “child support obligations” and inserting in lieu thereof “child support obligations”.

(c)(1)(A) Section 402(a)(9) of such Act is amended by striking out “use of disclosure” and inserting in lieu thereof “use or disclosure”.

(B) Section 402(a)(14) of such Act is amended by striking out “(A) provide that” and inserting in lieu thereof “provide (A) that”.

(C) Section 402(a)(19)(F)(i) of such Act is amended by striking out “or section 408” and inserting in lieu thereof “or section 472”.

(D) Section 402(a)(19)(G) of such Act is amended by striking out the comma before “that” in clause (iv).

(E) Section 402(a) of such Act is further amended—

(i) by striking out “must” immediately before the first of its 36 numbered subdivisions and inserting in lieu thereof “must—”;

(ii) by indenting and aligning such numbered subdivisions (without altering any of the numbering, language, or punctuation) to the extent necessary to make each of such subdivisions a numbered paragraph with its left margin indented two ems (and with any designated internal subdivisions within such paragraphs (including the numbered subdivisions in subparagraphs (A) and (B) of paragraph (8) and in subparagraph (A) of paragraph (14) but not including such subparagraphs themselves, and not including any of the subdivisions in paragraphs (9), (10), (15), (19)(G), (25), (30), (31), (33), and (36)) being appropriately further indented and aligned as subparagraphs or clauses);

(iii) by striking out “and” after the semicolon at the end of paragraph (5);





(iv) by striking out "clause" each place it appears in paragraphs (15)(A), (15)(B), and (19)(F) and inserting in lieu thereof "paragraph"; and

(v) by striking out "section 402(a)(7)" in paragraph (19)(D) and inserting in lieu thereof "paragraph (7)".

(F) Section 402(c) of such Act is amended by striking out "clause" each place it appears and inserting in lieu thereof "paragraph".

(G) Section 402(d)(2) of such Act is amended by striking out "section 43" and "section 43(g)" and inserting in lieu thereof "section 32" and "section 32(g)", respectively.

(2)(A) Section 403(b)(3) of such Act is amended by striking out all that follows "through" and precedes "and prior" and inserting in lieu thereof "the Fiscal Service of the Department of the Treasury".

(B) Clause (ii) in the last sentence of section 403(j) of such Act is amended by striking out the comma after "excess payments".

(3)(A) Section 406(b)(2) of such Act is amended by adding "and" after the semicolon at the end of clause (C), by striking out clause (D), and by redesignating clause (E) as clause (D).

(B)(i) The last sentence of section 406(b) of such Act, and section 402(a)(19)(F)(i) of such Act, are each amended by striking out "clauses (A) through (E)" and inserting in lieu thereof "clauses (A) through (D)".

(ii) Section 402(a)(26)(B) of such Act is amended by striking out "subparagraphs (A) through (E)" and inserting in lieu thereof "clauses (A) through (D)".

(4)(A) Section 407(b)(1)(C) of such Act is amended by striking out "such father", and "he" each place it appears, and by inserting in lieu thereof in each instance "such parent".

(B) Section 407(b)(2)(A) of such Act is amended by striking out "thirty days" and inserting in lieu thereof "30 days".

(5) Section 409(a) of such Act is amended—

(A) by striking out "vacancies" in paragraph (1)(B) and inserting in lieu thereof "vacancies"; and

(B) by striking out "part (C)" in paragraph (3) and inserting in lieu thereof "part C"

(6) Section 410 of such Act is amended by striking out "Food Stamp Act of 1964" in subsections (a) and (c) and inserting in lieu thereof "Food Stamp Act of 1977".

(7)(A) Section 414(b)(5) of such Act is amended by striking out "recipients" and inserting in lieu thereof "recipients".

(B) Section 415(b)(1)(B)(ii) of such Act is amended by striking out "determinig" and inserting in lieu thereof "determining".

(8) Section 420(b) of such Act is amended by striking out the comma immediately after "preceding sentence".

(9) Section 441 of such Act is amended by striking out "(a)".

(10) Section 444(d) of such Act is amended by striking out "rereferred" and inserting in lieu thereof "referred".

(11) Section 445(b)(1)(E) of such Act is amended by striking out "Comprehensive Employment and Training Act of 1973" and inserting in lieu thereof "Job Training Partnership Act".

(12) The second sentence of section 452(c)(2) of such Act is amended by striking out "preceding section" and inserting in lieu thereof "preceding sentence".

(13) Section 453(b)(2) of such Act is amended by striking out ", or the United States" and inserting in lieu thereof "of the United States".

(14) Section 454 of such Act is amended—



(A) by striking out "of such parent" in paragraph (9)(C);  
(B) by striking out "collection and distribution," in clause (A)(ii) of paragraph (16) and inserting in lieu thereof "collection, and distribution"; and

(C) by indenting paragraph (17) two ems so as to align its left margin with the margins of the preceding paragraphs, and amending such paragraph (as so indented)—

(i) by striking out "to accept" and inserting in lieu thereof "provide that the State will accept",

(ii) by striking out "and to impose" and inserting in lieu thereof "will impose",

(iii) by striking out "to transmit" and inserting in lieu thereof "will transmit", and

(iv) by striking out ", otherwise to comply" and inserting in lieu thereof "will otherwise comply".

(15) Section 456 of such Act is amended—

(A) by inserting "(1)" after "SEC. 456. (a)";

(B) by striking out "(1) The amount" and inserting in lieu thereof "(2) The amount";

(C) by striking out "(2) Any" and inserting in lieu thereof "(3) Any"; and

(D) by striking out "paragraphs (1) (A) and (B)" and inserting in lieu thereof "subparagraphs (A) and (B) of paragraph (2)".

(16) The heading of section 458 of such Act is amended by striking out "STATES" and inserting in lieu thereof "STATES".

(17) Section 462(f)(2) of such Act is amended by striking out "dependents" and inserting in lieu thereof "dependents'".

(18)(A) Section 474(b)(4)(A) of such Act is amended by striking out "subparagraph (c)" and inserting in lieu thereof "subparagraph (C)".

(B) Section 474(c)(2) of such Act is amended by striking out "relvant" and inserting in lieu thereof "relevant".

(C) Section 474(d)(1) of such Act is amended—

(i) by striking out "and (c)" the second place it appears and inserting in lieu thereof "and (C)"; and

(ii) by striking out "secretary" and inserting in lieu thereof "Secretary".

(d)(1) Section 901(c) of such Act is amended by aligning paragraphs (1) through (4) (including the subparagraphs in paragraph (3)) flush with the left margin (but with appropriate indentation in the case of the subparagraphs and clauses in paragraph (1)).

(2) Section 901(f) of such Act is amended by moving paragraph (3) two ems to the left, so that its left margin is in flush alignment with the margins of the other paragraphs in such section.

(3) Section 904(b) of such Act is amended by striking out "the Second Liberty Bond Act, as amended," and inserting in lieu thereof "chapter 31 of title 31, United States Code,".

(4) Section 908(d) of such Act is amended by striking out "5703(b)" and inserting in lieu thereof "5703".

(e)(1)(A) Subparagraphs (C) and (D) of section 1101(a)(8) of such Act are amended by indenting them 2 ems so as to align their left margin with the left margin of subparagraphs (A) and (B) of such section.

(B) Paragraph (9) of section 1101(a) of such Act is amended by indenting it (including subparagraphs (A) through (D) and clauses (i) and (ii) of subparagraph (C)) 2 ems so as to align the left margin at the beginning of such paragraph with the left margin of paragraph (8)(A) of such section.





(2)(A) Section 1107(a) of such Act is amended by striking out "subchapter E of chapter 1 or subchapter A, C, or E of chapter 9 of the Internal Revenue Code," and inserting in lieu thereof "of chapter 2, 21, or 23 of the Internal Revenue Code of 1954, or of any provision of subtitle F of such Code which corresponds (within the meaning of section 7852(b) of such Code) to a provision contained in subchapter E of chapter 9 of the Internal Revenue Code of 1939,".

(B) The amendment made by subparagraph (A) shall not apply to returns filed or representations made on or before the date of the enactment of this Act.

(3) Section 1107(b) of such Act is amended by striking out "former wife divorced," each place it appears and inserting in lieu thereof "divorced wife, divorced husband, surviving divorced wife, surviving divorced husband, surviving divorced mother, surviving divorced father,".

(4)(A) Section 1114(g) of such Act is amended by striking out the period after "Code" and inserting in lieu thereof a comma.

(B) Section 1114(h)(1) of such Act is amended by striking out "sections 281, 283, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99)" and insert in lieu thereof "sections 203, 205, and 209 of title 18, United States Code".

(5) Section 1115(a) of such Act is amended by striking out "VI," "602," and "603,".

(6) Section 1116 of such Act is amended—

(A) by striking out "VI," in subsections (a)(1), (b), and (d);

(B) by striking out "604," in subsection (a)(3); and

(C) by striking out "XVI," and all that follows through "part A" in subsection (d) and inserting in lieu thereof "XVI, or XIX, or part A".

(7) Section 1131(a) of such Act is amended—

(A) by striking out the period after "section 204(d) of this Act" in paragraph (2)(B) and inserting in lieu thereof a comma; and

(B) by moving the matter following paragraph (2)(B) two ems to the left so that it is flush with the left margin.

(f) Title XIII of such Act is repealed.

(g)(1) Section 1611(c) of such Act is amended by adding at the beginning thereof the following heading:

**"Period for Determination of Benefits".**

(2) Section 1611(g) of such Act is amended by striking out "or individuals" and inserting in lieu thereof "or such individual".

(3) Section 1612(b)(2) of such Act is amended by indenting subparagraph (B) two ems so as to align its left margin with the margin of subparagraph (A).

(4) Section 1612(b)(9) of such Act is amended by inserting a comma after "child".

(5) The heading of section 1613(c) of such Act is amended to read as follows:

**"Disposal of Resources For Less Than Fair Market Value".**

(6) Section 1614(a)(3) of such Act is amended by moving subparagraph (E) two ems to the left, so that its left margin is in flush alignment with the margins of the other subparagraphs in such section.



(7) Section 1614(d)(1) of such Act is amended by striking out "man and women" and inserting in lieu thereof "man and woman".

(8) Section 1615 of such Act is amended by striking out "the Vocational Rehabilitation Act" in subsections (a), (c), and (d) and inserting in lieu thereof "title I of the Rehabilitation Act of 1973".

(9) Section 1618 of such Act is amended—

(A) by moving subsection (d) two ems to the left, so that its left margin is in flush alignment with the margins of the other subsections in such section;

(B) by striking out the comma after "levels of its" in such subsection (d); and

(C) by inserting a comma after "1980", and after "1976" each place it appears, in such subsection.

(10) Section 1621(e) of such Act is amended by striking out "severably" and inserting in lieu thereof "severally".

(11)(A) Section 1631(b)(1) of such Act is amended by striking out "equity or" and inserting in lieu thereof "equity and".

(B) Section 1631(b)(2) of such Act is amended by striking out "section 43" and "section 43(g)" and inserting in lieu thereof "section 32" and "section 32(g)", respectively.

(12) Section 1631(d)(1) of such Act is amended by striking out "(e), and (f)" and inserting in lieu thereof "and (e)".

(h)(1) Section 2002(b) of such Act is amended by striking out "section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)" and inserting in lieu thereof "section 6503 of title 31, United States Code,".

(2) Section 2006(c) of such Act is amended by striking out "section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212)" and inserting in lieu thereof "section 6503 of title 31, United States Code".

(i)(1) Section 3121(b)(1) of the Internal Revenue Code of 1954 is amended by striking out "(A)" and all that follows down through "or (B)".

(2) Section 3121(i)(2) of such Code is amended by striking out "section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "chapter 3 and section 1009 of title 37, United States Code".

(3) Section 3121(m)(2) of such Code is amended—

(A) by striking out "section 102 of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "paragraph (21) of section 101 of title 38, United States Code"; and

(B) by striking out "such section" and inserting in lieu thereof "paragraph (22) of such section".

(4) Section 3121(m)(3) of such Code is amended by striking out "such section 102" and inserting in lieu thereof "paragraph (23) of such section 101".

(5) Section 3121(n) of such Code is amended—

(A) by striking out "a reserve component of a uniformed service as defined in section 102(3) of the Servicemen's and Veterans' Survivor Benefits Act" in the first sentence and inserting in lieu thereof "a reserve component as defined in section 101(27) of title 38, United States Code";

(B) by inserting ", the National Oceanic and Atmospheric Administration Corps," after "Coast and Geodetic Survey" in the first sentence;





(C) by striking out "military or naval" each place it appears in paragraph (5) and inserting in lieu thereof "military, naval, or air"; and

(D) by striking out "Universal Military Training and Service Act" in paragraph (5)(B) and inserting in lieu thereof "Military Selective Service Act".

(j)(1) Section 1101(a)(6) of the Social Security Act is amended by striking out "means" and all that follows and inserting in lieu thereof "means the Secretary of Health and Human Services."

(2) The following provisions of such Act are amended by striking out "Health, Education, and Welfare" wherever it appears and inserting in lieu thereof "Health and Human Services":

(A) In title II—

(i) subsections (a)(3), (a)(4), (b)(1), (b)(2), (g)(1), (g)(2), (g)(4), and (i)(1) of section 201;

(ii) subsections (q)(4)(B), (q)(6)(B), and (r)(1) of section 218; and

(iii) subsections (b)(3) and (b)(4) of section 231;

(B) in title IV—

(i) subsections (b)(2) and (b)(3) of section 403;

(ii) subsection (a) of section 431;

(iii) subsection (b) of section 436;

(iv) section 439;

(v) section 441;

(vi) section 443;

(vii) subsection (a) of section 444;

(viii) subsection (a) of section 452;

(ix) subsection (b)(1) of section 453;

(x) paragraph (8)(B) of section 454; and

(xi) section 460;

(C) in title VII—

(i) section 702; and

(ii) subsection (c)(1) of section 706;

(D) in title XI—

(i) section 1102;

(ii) subsection (b) of section 1106;

(iii) subsection (b) of section 1107;

(iv) subsection (c) of section 1114;

(v) section 1120; and

(vi) subsection (a) of section 1126;

(E) in title XVI, section 1602; and

(F) in title XVIII—

(i) subsections (a), (f)(1), (g), and (h) of section 1817;

(ii) subsections (a)(2) and (d)(1) of section 1840;

(iii) subsections (f), (g), (h), and (i) of section 1841; and

(iv) subsection (b)(3) of section 1842.

(3) The following provisions of such Act are amended by striking out "of Health, Education, and Welfare" wherever it appears:

(A) In title II—

(i) subsections (a)(10)(B) and (1)(4)(A) of section 210;

(ii) subsections (a)(2), (a)(3), (b)(2), (e)(2), (e)(3), and (f)(1) of section 217;

(iii) subsections (a)(1), (c)(4), (d)(3), (d)(7), (h)(2), (h)(3), (i), (j), (k)(1), (l), and (p)(2) of section 218;

(iv) subsection (g) of section 228; and

(v) subsection (d) of section 233;

(B) in title IV—



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- (i) subsection (a)(3) of section 403; and
- (ii) subsection (e) of section 407; and

(C) in title XIX, section 1901.

(4) Section 205(l) of such Act is amended by striking out "employee" and all that follows down through "designated" and inserting in lieu thereof "employee of the Department of Health and Human Services designated".

(5) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services":

(A) Subsection (d)(6)(B)(ii) of section 51;

(B) subsections (c)(1), (c)(2)(E), (g)(1), (g)(3)(A), and (g)(3)(B) of section 1402;

(C) subsection (b)(10)(B) of section 3121;

(D) subsections (d) and (f) of section 6057;

(E) subsection (l)(5) of section 6103; and

(F) paragraph (5) of section 6511(d).

(k) Sections 432(d), 432(f)(1), 433(g), and 434(b) of the Social Security Act are each amended by striking out "of Labor" wherever it appears.

(l) Any reference to the Federal Security Administrator which may remain in the provisions of title II, IV, VII, or XI of the Social Security Act (other than section 1101(a)(6) of such Act) is amended—

(1) by substituting "Secretary" or "Secretary's" for the term "Administrator" or "Administrator's", where the reference is to that term alone;

(2) by substituting "Secretary of Health, Education, and Welfare" for the term "Federal Security Administrator", where the reference is to that term, if the provision containing such reference is amended by paragraph (2) or (3) of subsection (j) (in which case the amendment of such provision under this paragraph shall be deemed to have taken effect immediately prior to the amendment of such provision under such paragraph (2) or (3)); and

(3) by substituting "Secretary of Health and Human Services" for the term "Federal Security Administrator" in any other case where the reference is to that term;

and any reference to the Federal Security Agency which may remain in such provisions is amended by substituting "Department of Health and Human Services" for the term "Federal Security Agency"; but nothing in this subsection shall affect the exercise under section 402(a)(5) of such Act of the functions, powers, and duties relating to the prescription of personnel standards on a merit basis which were transferred from the Secretary of Health, Education, and Welfare by section 208(a)(3)(D) of Public Law 91-648.

EFFECTIVE DATES

SEC. 2664. (a) Except as otherwise specifically provided, the amendments made by sections 2661 and 2662 shall be effective as though they had been included in the enactment of the Social Security Amendments of 1983 (Public Law 98-21).

(b) Except to the extent otherwise specifically provided in this subtitle, the amendments made by section 2663 shall be effective on the date of the enactment of this Act; but none of such amendments shall be construed as changing or affecting any right, liability,





status, or interpretation which existed (under the provisions of law involved) before that date.

## Subtitle E—Trade Adjustment Assistance

### LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES

SEC. 2671. The first sentence of section 233(a)(3) of the Trade Act of 1974 (19 U.S.C. 2293(a)(3)) is amended to read as follows: "Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 236, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that—

"(A) follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter; or

"(B) begins with the first week of such training, if such training is approved after the last week described in subparagraph (A)."

### JOB SEARCH AND RELOCATION ALLOWANCES

SEC. 2672. (a) Section 237(a)(1) of the Trade Act of 1974 (19 U.S.C. 2297(a)(1)) is amended by striking out "\$600" and inserting in lieu thereof "\$800".

(b) Section 238(d)(2) of the Trade Act of 1974 (19 U.S.C. 2298(d)(2)) is amended by striking out "\$600" and inserting in lieu thereof "\$800".

### ASSISTANCE TO INDUSTRY

SEC. 2673. Section 265 of the Trade Act of 1974 (19 U.S.C. 2355) is amended—

(1) by amending subsection (a)—

(A) by inserting "or workers" immediately after "substantial number of firms", and

(B) by inserting "223 or" immediately before "251"; and

(2) by striking out "\$2,000,000" in subsection (b) and inserting in lieu thereof "\$10,000,000".

## Subtitle F—Certain Provisions Relating to Puerto Rico and the Virgin Islands

### SEC. 2681. CLARIFICATION OF DEFINITION OF ARTICLES PRODUCED IN PUERTO RICO OR THE VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) ARTICLES CONTAINING DISTILLED SPIRITS.—For purposes of subsections (a)(3) and (b)(3), any article containing distilled spirits shall in no event be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such article is attributable to rum.

"(d) ARTICLES OTHER THAN ARTICLES CONTAINING DISTILLED SPIRITS.—For purposes of subsections (a)(3) and (b)(3)—



"(1) **VALUE ADDED REQUIREMENT FOR PUERTO RICO.**—Any article, other than an article containing distilled spirits, shall in no event be treated as produced in Puerto Rico unless the sum of—

"(A) the cost or value of the materials produced in Puerto Rico, plus

"(B) the direct costs of processing operations performed in Puerto Rico, equals or exceeds 50 percent of the value of such article as of the time it is brought into the United States.

"(2) **PROHIBITION OF FEDERAL EXCISE TAX SUBSIDIES.**—

"(A) **IN GENERAL.**—No amount shall be transferred under subsection (a)(3) or (b)(3) in respect of taxes imposed on any article, other than an article containing distilled spirits, if the Secretary determines that a Federal excise tax subsidy was provided by Puerto Rico or the Virgin Islands (as the case may be) with respect to such article.

"(B) **FEDERAL EXCISE TAX SUBSIDY.**—For purposes of this paragraph, the term 'Federal excise tax subsidy' means any subsidy—

"(i) of a kind different from, or

"(ii) in an amount per value or volume of production greater than, the subsidy which Puerto Rico or the Virgin Islands offers generally to industries producing articles not subject to Federal excise taxes.

"(3) **DIRECT COSTS OF PROCESSING OPERATIONS.**—For purposes of this subsection, the term 'direct cost of processing operations' has the same meaning as when used in section 213 of the Caribbean Basin Economic Recovery Act."

(b) **EFFECTIVE DATES AND SPECIAL RULES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to articles brought into the United States on or after March 1, 1984.

(2) **EXCEPTION FOR PUERTO RICO FOR PERIODS BEFORE JANUARY 1, 1985.**—

(A) **IN GENERAL.**—Subject to the limitations of subparagraphs (B) and (C), the amendments made by subsection (a) shall not apply with respect to articles containing distilled spirits brought into the United States from Puerto Rico after February 29, 1984, and before January 1, 1985.

(B) **\$130,000,000 LIMITATION.**—In the case of such articles brought into the United States after February 29, 1984, and before July 1, 1984, the aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed the excess of—

(i) \$130,000,000, over

(ii) the aggregate amount payable to Puerto Rico under section 7652(a) of the Internal Revenue Code of 1954 with respect to such articles which were brought into the United States after June 30, 1983, and before March 1, 1984, and which would not meet the requirements of section 7652(c) of such Code.

(C) **\$75,000,000 LIMITATION.**—The aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed \$75,000,000 in the case of articles—





(i) brought into the United States after June 30, 1984, and before January 1, 1985,

(ii) which would not meet the requirements of section 7652(c) of such Code,

(iii) which have been redistilled in Puerto Rico, and

(iv) which do not contain distilled spirits derived from cane.

(3) LIMITATION ON INCENTIVE PAYMENTS TO UNITED STATES DISTILLERS.—

(A) IN GENERAL.—In the case of articles to which this paragraph applies, the aggregate amount of incentive payments paid to any United States distiller with respect to such articles shall not exceed the limitation described in subparagraph (C).

(B) ARTICLES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any article containing distilled spirits described in clauses (i) through (iv) of paragraph (2)(C).

(C) LIMITATION.—

(i) IN GENERAL.—The limitation described in this subparagraph is \$1,500,000.

(ii) SPECIAL RULE.—The limitation described in this subparagraph shall be zero with respect to any distiller who was not entitled to or receiving incentive payments as of March 1, 1984.

(D) PAYMENTS IN EXCESS OF LIMITATION.—If any United States distiller receives any incentive payment with respect to articles to which this paragraph applies in excess of the limitation described in subparagraph (C), such distiller shall pay to the United States the total amount of such incentive payments with respect to such articles in the same manner, and subject to the same penalties, as if such amount were tax due and payable under section 5001 of such Code on the date such payments were received.

(E) INCENTIVE PAYMENTS.—

(i) IN GENERAL.—For purposes of this paragraph, the term "incentive payment" means any payment made directly or indirectly by the commonwealth of Puerto Rico to any United States distiller as an incentive to engage in redistillation operations.

(ii) TRANSPORTATION PAYMENTS EXCLUDED.—Such term shall not include any payment of a direct cost of transportation to or from Puerto Rico with respect to any article to which this paragraph applies.

SEC. 2682. LIMITATIONS ON TRANSFERS OF EXCISE TAX REVENUES TO PUERTO RICO AND THE VIRGIN ISLANDS.—

(a) IN GENERAL.—Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by adding at the end thereof the following new subsection:

"(f) LIMITATION ON COVER OVER OF TAX ON DISTILLED SPIRITS.—For purposes of this section, with respect to taxes imposed under section 5001 or this section on distilled spirits, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the lesser of the rate of—

"(1) \$10.50, or

"(2) the tax imposed under section 5001(a)(1), on each proof gallon."



(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to articles containing distilled spirits brought into the United States after September 30, 1985.

## TITLE VII—COMPETITION IN CONTRACTING

### SHORT TITLE

SEC. 2701. This title may be cited as the "Competition in Contracting Act of 1984".

### Subtitle A—Amendments to the Federal Property and Administrative Services Act of 1949

#### PROCUREMENT PROCEDURES

SEC. 2711. (a)(1) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended to read as follows:

#### "COMPETITION REQUIREMENTS

"SEC. 303. (a)(1) Except as provided in subsections (b), (c), and (g) and except in the case of procurement procedures otherwise expressly authorized by statute, an executive agency in conducting a procurement for property or services—

"(A) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this title and the modifications to regulations promulgated pursuant to section 2752 of the Competition in Contracting Act of 1984; and

"(B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

"(2) In determining the competitive procedures appropriate under the circumstance, an executive agency—

"(A) shall solicit sealed bids if—

"(i) time permits the solicitation, submission, and evaluation of sealed bids;

"(ii) the award will be made on the basis of price and other price-related factors;

"(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

"(iv) there is a reasonable expectation of receiving more than one sealed bid; and

"(B) shall request competitive proposals if sealed bids are not appropriate under clause (A).

"(b)(1) An executive agency may provide for the procurement of property or services covered by this section using competitive procedures but excluding a particular source in order to establish or maintain any alternative source or sources of supply for that property or service if the agency head determines that to do so—

"(A) would increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of such property or services;





"(B) would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the property or service in case of a national emergency or industrial mobilization; or

"(C) would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center.

"(2) In fulfilling the statutory requirements relating to small business concerns and socially and economically disadvantaged small business concerns, an executive agency shall use competitive procedures but may restrict a solicitation to allow only such business concerns to compete.

"(c) An executive agency may use procedures other than competitive procedures only when—

"(1) the property or services needed by the executive agency are available from only one responsible source and no other type of property or services will satisfy the needs of the executive agency;

"(2) the executive agency's need for the property or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the executive agency is permitted to limit the number of sources from which it solicits bids or proposals;

"(3) it is necessary to award the contract to a particular source or sources in order (A) to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve industrial mobilization, or (B) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center;

"(4) the terms of an international agreement or treaty between the United States Government and a foreign government or international organization, or the written directions of a foreign government reimbursing the executive agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of procedures other than competitive procedures;

"(5) a statute expressly authorizes or requires that the procurement be made through another executive agency or from a specified source, or the agency's need is for a brand-name commercial item for authorized resale;

"(6) the disclosure of the executive agency's needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals; or

"(7) the head of the executive agency—

"(A) determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement concerned, and

"(B) notifies the Congress in writing of such determination not less than 30 days before the award of the contract.

"(d)(1) For the purposes of applying subsection (c)(1)—

"(A) in the case of a contract for property or services to be awarded on the basis of acceptance of an unsolicited research



proposal, the property or services shall be considered to be available from only one source if the source has submitted an unsolicited research proposal that demonstrates a unique and innovative concept the substance of which is not otherwise available to the United States and does not resemble the substance of a pending competitive procurement; and

“(B) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment when it is likely that award to a source other than the original source would result in (i) substantial duplication of cost to the Government which is not expected to be recovered through competition, or (ii) unacceptable delays in fulfilling the executive agency’s needs, such property may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures.

“(2) The authority of the head of an executive agency under subsection (c)(7) may not be delegated.

“(e) An executive agency using procedures other than competitive procedures to procure property or services by reason of the application of subsection (c)(2) or (c)(6) shall request offers from as many potential sources as is practicable under the circumstances.

“(f)(1) Except as provided in paragraph (2), an executive agency may not award a contract using procedures other than competitive procedures unless—

“(A) the contracting officer for the contract justifies the use of such procedures in writing and certifies the accuracy and completeness of the justification;

“(B) the justification is approved—

“(i) in the case of a contract for an amount exceeding \$100,000 (but equal to or less than \$1,000,000), by the competition advocate for the procuring activity (without further delegation);

“(ii) in the case of a contract for an amount exceeding \$1,000,000 (but equal to or less than \$10,000,000), by the head of the procuring activity or a delegate who, if a member of the armed forces, is a general or flag officer or, if a civilian, is serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule); or

“(iii) in the case of a contract for an amount exceeding \$10,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation); and

“(C) Any required notice has been published with respect to such contract pursuant to section 18 of the Office of Federal Procurement Policy Act and all bids or proposals received in response to such notice have been considered by such executive agency.

“(2) In the case of a procurement permitted by subsection (c)(2), the justification and approval required by paragraph (1) may be made after the contract is awarded. The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O’Day Act.





“(3) The justification required by paragraph (1)(A) shall include—

“(A) a description of the agency’s needs;

“(B) an identification of the statutory exception from the requirement to use competitive procedures and a demonstration, based on the proposed contractor’s qualifications or the nature of the procurement, of the reasons for using that exception;

“(C) a determination that the anticipated cost will be fair and reasonable;

“(D) a description of the market survey conducted or a statement of the reasons a market survey was not conducted;

“(E) a listing of the sources, if any, that expressed in writing an interest in the procurement; and

“(F) a statement of the actions, if any, the agency may take to remove or overcome a barrier to competition before a subsequent procurement for such needs.

“(4) The justification required by paragraph (1)(A) and any related information shall be made available for inspection by the public consistent with the provisions of section 552 of title 5, United States Code.

“(5) In no case may an executive agency—

“(A) enter into a contract for property or services using procedures other than competitive procedures on the basis of the lack of advance planning or concerns related to the amount of funds available to the agency for procurement functions; or

“(B) procure property or services from another executive agency unless such other executive agency complies fully with the requirements of this title in its procurement of such property or services.

The restriction set out in clause (B) is in addition to, and not in lieu of, any other restriction provided by law.

“(g)(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the regulations modified, in accordance with section 2752 of the Competition in Contracting Act of 1984 shall provide for special simplified procedures for small purchases of property and services.

“(2) For the purposes of this title, a small purchase is a purchase or contract for an amount which does not exceed \$25,000.

“(3) A proposed purchase or contract for an amount above \$25,000 may not be divided into several purchases or contracts for lesser amounts in order to use the small purchase procedures required by paragraph (1).

“(4) In using small purchase procedures, an executive agency shall promote competition to the maximum extent practicable.”

(2) Title III of such Act is further amended by inserting after section 303 the following new sections:

“PLANNING AND SOLICITATION REQUIREMENTS

“SEC. 303A. (a)(1) In preparing for the procurement of property or services, an executive agency shall—

“(A) specify its needs and solicit bids or proposals in a manner designed to achieve full and open competition for the procurement;

“(B) use advance procurement planning and market research; and



"(C) develop specifications in such manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired.

"(2) Each solicitation under this title shall include specifications which—

"(A) consistent with the provisions of this title, permit full and open competition;

"(B) include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the executive agency or as authorized by law.

"(3) For the purposes of paragraphs (1) and (2), the type of specification included in a solicitation shall depend on the nature of the needs of the executive agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

"(A) function, so that a variety of products or services may qualify;

"(B) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

"(C) design requirements.

"(b) In addition to the specifications described in subsection (a), each solicitation for sealed bids or competitive proposals (other than for small purchases) shall at a minimum include—

"(1) a statement of—

"(A) all significant factors (including price) which the executive agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

"(B) the relative importance assigned to each of those factors; and

"(2)(A) in the case of sealed bids—

"(i) a statement that sealed bids will be evaluated without discussions with the bidders; and

"(ii) the time and place for the opening of the sealed bids;

or

"(B) in the case of competitive proposals—

"(i) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors, but might be evaluated and awarded without discussions with the offerors; and

"(ii) the time and place for submission of proposals.

#### "EVALUATION AND AWARD

"Sec. 303B. (a) An executive agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation.

"(b) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the agency head determines that such action is in the public interest.

"(c) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The executive agency shall evaluate the bids without discussions with the bidders and, except as provided in subsection (b), shall award a contract with reasonable promptness to the responsible source whose bid conforms to the solicitation and is most advantageous to the United States, considering only price and the other price-related factors included in the solicitation. The





award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(d)(1) The executive agency shall evaluate competitive proposals and may award a contract—

"(A) after discussions conducted with the offerors at any time after receipt of the proposals and before the award of the contract; or

"(B) without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) when it can be clearly demonstrated from the existence of full and open competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in the lowest overall cost to the Government.

"(2) In the case of award of a contract under paragraph (1)(A), the executive agency shall conduct, before such award, written or oral discussions with all responsible sources who submit proposals within the competitive range, considering only price and the other factors included in the solicitation.

"(3) In the case of award of a contract under paragraph (1)(B), the executive agency shall award the contract based on the proposals as received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(4) Except as otherwise provided in subsection (b), the executive agency shall award a contract with reasonable promptness to the responsible source whose proposal is most advantageous to the United States, considering only price and the other factors included in the solicitation. The executive agency shall award the contract by transmitting written notice of the award to such source and shall promptly notify all other offerors of the rejection of their proposals.

"(e) If the agency head considers that a bid or proposal evidences a violation of the antitrust laws, such agency head shall refer the bid or proposal to the Attorney General for appropriate action."

(3) Section 309 of such Act (41 U.S.C. 259) is amended by adding at the end thereof the following new subsections:

"(b) The term 'competitive procedures' means procedures under which an executive agency enters into a contract pursuant to full and open competition. Such term also includes—

"(1) procurement of architectural or engineering services conducted in accordance with title IX of this Act (40 U.S.C. 541 et seq.);

"(2) the competitive selection of basic research proposals resulting from a general solicitation and the peer review or scientific review (as appropriate) of such proposals; and

"(3) the procedures established by the Administrator for the multiple awards schedule program of the General Services Administration if—

"(A) participation in the program has been open to all responsible sources; and

"(B) orders and contracts under such procedures result in the lowest overall cost alternative to meet the needs of the Government.

"(c) The terms 'full and open competition' and 'responsible source' have the same meanings provided such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)."

(b) The table of contents of such Act is amended by striking out the item relating to section 303 and inserting in lieu thereof the following:



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"Sec. 303. Competition requirements.

"Sec. 303A. Planning and solicitation requirements.

"Sec. 303B. Evaluation and award."

(c) The amendments made by this section do not supersede or affect the provisions of section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

COST OR PRICING DATA

SEC. 2712. Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by adding at the end thereof the following new subsection:

"(d)(1) A prime contractor or any subcontractor shall be required to submit cost or pricing data under the circumstances listed below, and shall be required to certify that, to the best of such contractor's or subcontractor's knowledge and belief, the cost or pricing data submitted were accurate, complete, and current—

"(A) before the award of any prime contract under this title using procedures other than sealed-bid procedures, if the contract price is expected to exceed \$100,000;

"(B) before the pricing of any contract change or modification, if the price adjustment is expected to exceed \$100,000, or such lesser amount as may be prescribed by the agency head;

"(C) before the award of a subcontract at any tier, when the prime contractor and each higher tier subcontractor have been required to furnish such a certificate, if the price of such subcontract is expected to exceed \$100,000; or

"(D) before the pricing of any contract change or modification to a subcontract covered by clause (C), if the price adjustment is expected to exceed \$100,000, or such lesser amount as may be prescribed by the agency head.

"(2) Any prime contract or change or modification thereto under which a certificate is required under paragraph (1) shall contain a provision that the price to the Government, including profit or fee, shall be adjusted to exclude any significant sums by which it may be determined by the agency head that such price was increased because the contractor or any subcontractor required to furnish such a certificate, furnished cost or pricing data which, as of a date agreed upon between the parties (which date shall be as close to the date of agreement on the price as is practicable), were inaccurate, incomplete, or noncurrent.

"(3) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this subsection, any authorized representative of the agency who is an employee of the United States Government shall have the right, until the expiration of three years after final payment under the contract or subcontract, to examine all books, records, documents, and other data of the contractor or subcontractor related to the proposal for the contract, the discussions conducted on the proposal, pricing, or performance of the contract or subcontract.

"(4) When cost or pricing data are not required to be submitted by this subsection, such data may nevertheless be required by the agency if the agency head determines that such data are necessary for the evaluation by the executive agency of the reasonableness of the price of the contract or subcontract.

"(5) The requirements of this subsection need not be applied to contracts or subcontracts—

"(A) where the price is based on—





- “(i) adequate price competition,
- “(ii) established catalog or market prices of commercial items sold in substantial quantities to the general public, or
- “(iii) prices set by law or regulation, or
- “(B) in exceptional cases, where the agency head determines that the requirements of this subsection may be waived and states in writing the reasons for such determination.”.

**AUTOMATED DATA PROCESSING DISPUTE RESOLUTION**

SEC. 2713. (a) Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end thereof the following new subsection:

“(h)(1) Upon request of an interested party in connection with any procurement conducted under the authority of this section (including procurements conducted under delegations of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the ‘board’), shall review any decision by a contracting officer alleged to violate a statute or regulation. Such review shall be conducted under the standard applicable to review of contracting officer final decisions by boards of contract appeals. An interested party who has filed a protest under subchapter V of chapter 35 of title 31, United States Code, with respect to a procurement or proposed procurement may not file a protest with respect to that procurement or proposed procurement under this subsection.

“(2)(A) When a protest under this subsection is filed before the award of a contract in a protested procurement, the board, at the request of an interested party and within 10 days of the filing of the protest, shall hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

“(B) The board shall suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority unless the Federal agency concerned establishes that—

“(i) absent action by the board, contract award is likely to occur within 30 days of the hearing; and

“(ii) urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the board.

“(3)(A) If the Board receives notice of a protest under this subsection after the contract has been awarded but within 10 days after the contract award, the board shall, at the request of an interested party and within 10 days after the date of the filing of the protest, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority for the challenged procurement on an interim basis until the board can decide the protest.

“(B) The board shall suspend the procurement authority of the Administrator or the Administrator’s delegation of procurement authority to acquire any goods or services under the contract which are not previously delivered and accepted unless the Federal agency concerned establishes that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the board.



"(4)(A) The board shall conduct such proceedings and allow such discovery as may be required for the expeditious, fair, and reasonable resolution of the protest.

"(B) Subject to any deadlines imposed by section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)), the board shall give priority to protests filed under this subsection. The board shall issue its final decision within 45 working days after the date of the filing of the protest, unless the board's chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the board shall issue such decision within the longer period determined by the chairman.

"(C) The board may dismiss a protest the board determines is frivolous or which, on its face, does not state a valid basis for protest.

"(5)(A) In making a decision on the merits of protests brought under this section, the board shall accord due weight to the policies of this section and the goals of economic and efficient procurement set forth in this section.

"(B) If the board determines that a challenged agency action violates a statute or regulation or the conditions of any delegation of procurement authority issued pursuant to this section, the board may suspend, revoke, or revise the procurement authority of the Administrator or the Administrator's delegation of procurement authority applicable to the challenged procurement.

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate interested party to be entitled to the costs of—

"(i) filing and pursuing the protest, including reasonable attorney's fees, and

"(ii) bid and proposal preparation.

"(6)(A) The final decision of the board may be appealed by the head of the Federal agency concerned and by any interested party, including interested parties who intervene in any protest filed under this subsection, as set forth in the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

"(B) If the board revokes, suspends, or revises the procurement authority of the Administrator or the Administrator's delegation of procurement authority after the contract award, the affected contract shall be presumed valid as to all goods or services delivered and accepted under the contract before the suspension, revocation, or revision of such procurement authority or delegation.

"(C) Nothing contained in this subsection shall affect the board's power to order any additional relief which it is authorized to provide under any statute or regulation. However, the procedures set forth in this subsection shall only apply to procurements conducted under the authority contained in this section. In addition, nothing contained in this subsection shall affect the right of any interested party to file a protest with the contracting agency or to file an action in a district court of the United States or the United States Claims Court.

"(8) Not later than January 15, 1985, the board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(9) For purposes of this subsection—

"(A) the term 'protest' means a written objection by an interested party to a solicitation by a Federal agency for bids or





proposals for a proposed contract for the procurement of property or services or a written objection to a proposed award or the award of such a contract; and

"(B) the term 'interested party' means, with respect to a contract or proposed contract described in subparagraph (A), an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract."

(b) The amendment made by this section shall cease to be effective on January 15, 1988.

#### CONFORMING AMENDMENTS

SEC. 2714. (a)(1) Section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252) is amended—

(A) by striking out the second sentence in subsection (b); and

(B) by striking out subsections (c), (d), (e), and (f) and inserting in lieu thereof the following:

"(c)(1) This title does not (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items using procedures other than sealed-bid procedures under section 303(a)(2)(A), if the conditions set forth in section 303(a)(2)(A) apply or the contract is to be performed outside the United States.

"(2) Section 303(a)(2)(A) does not require the use of sealed-bid procedures in cases in which section 204(e) of title 23, United States Code, applies."

(2) The heading of section 304 of such Act (41 U.S.C. 254) is amended to read as follows:

#### "CONTRACT REQUIREMENTS".

(3) Section 304 of such Act (41 U.S.C. 254) is amended—

(A) by striking out "negotiated pursuant to section 302(c)" in the first sentence of subsection (a) and inserting in lieu thereof "awarded after using procedures other than sealed-bid procedures";

(B) by striking out "negotiated pursuant to section 302(c)" in the second sentence of subsection (a) and inserting in lieu thereof "awarded after using procedures other than sealed-bid procedures"; and

(C) by striking out "negotiated without advertising pursuant to authority contained in this Act" in the first sentence of subsection (c) and inserting in lieu thereof "awarded after using procedures other than sealed-bid procedures".

(4) Section 307 of such Act (41 U.S.C. 257) is amended—

(A) by striking out the first sentence of subsection (a) and inserting in lieu thereof the following: "Determinations and decisions provided in this Act to be made by the Administrator or other agency head shall be final. Such determinations or decisions may be made with respect to individual purchases or contracts or, except for determinations or decisions under sections 303, 303A, and 303B, with respect to classes of purchases or contracts.";



(B) by striking out "Except as provided in subsection (b)," in the second sentence of subsection (a) and inserting in lieu thereof "Except as provided in section 303(d)(2),";

(C) by striking out "this chapter" in such sentence and inserting in lieu thereof "this Act";

(D) by striking out subsection (b);

(E) by striking out "by paragraphs (11), (12), (13), or (14) of section 302(c)," in subsection (c);

(F) by redesignating subsection (c) as subsection (b); and

(G) by striking out subsection (d).

(5) Section 308 of such Act (41 U.S.C. 258) is amended by striking out "entered into pursuant to section 302(c) without advertising," and inserting in lieu thereof "made or awarded after using procedures other than sealed-bid procedures".

(6) Section 310 of such Act (41 U.S.C. 260) is amended by striking out "section 302(c)(15) of this title without regard to the advertising requirements of sections 302(c) and 303" and inserting in lieu thereof "the provisions of this title relating to procedures other than sealed-bid procedures".

(b) The table of contents of such Act is amended by striking out the item relating to section 304 and inserting in lieu thereof the following:

"Sec. 304. Contract requirements."

## Subtitle B—Amendments to Title 10, United States Code

### DECLARATION OF POLICY

SEC. 2721. Section 2301 of title 10, United States Code, is amended to read as follows:

#### "§ 2301. Congressional defense procurement policy

"(a) The Congress finds that in order to ensure national defense preparedness, conserve fiscal resources, and enhance defense production capability, it is in the interest of the United States that property and services be acquired for the Department of Defense in the most timely, economic, and efficient manner. It is therefore the policy of Congress that—

"(1) full and open competitive procedures shall be used by the Department of Defense in accordance with the requirements of this chapter;

"(2) services and property (including weapon systems and associated items) for the Department of Defense be acquired by any kind of contract, other than cost-plus-a-percentage-of-cost contracts, but including multiyear contracts, that will promote the interest of the United States;

"(3) contracts, when appropriate, provide incentives to contractors to improve productivity through investment in capital facilities, equipment, and advanced technology;

"(4) contracts for advance procurement of components, parts, and materials necessary for manufacture or for logistics support of a weapon system should, if feasible and practicable, be entered into in a manner to achieve economic-lot purchases and more efficient production rates;





"(5) the head of an agency use advance procurement planning and market research and prepare contract specifications in such a manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired; and

"(6) the head of an agency encourage the development and maintenance of a procurement career management program to ensure a professional procurement work force.

"(b) Further, it is the policy of Congress that procurement policies and procedures for the agencies named in section 2303 of this title shall in accordance with the requirements of this chapter—

"(1) promote full and open competition;

"(2) be implemented to support the requirements of such agencies in time of war or national emergency as well as in peacetime;

"(3) promote responsiveness of the procurement system to agency needs by simplifying and streamlining procurement processes;

"(4) promote the attainment and maintenance of essential capability in the defense industrial base and the capability of the United States for industrial mobilization;

"(5) provide incentives to encourage contractors to take actions and make recommendations that would reduce the costs to the United States relating to the purchase or use of property or services to be acquired under contracts;

"(6) promote the use of commercial products whenever practicable; and

"(7) require descriptions of agency requirements, whenever practicable, in terms of functions to be performed or performance required.

"(c) Further, it is the policy of Congress that a fair proportion of the purchases and contracts entered into under this chapter be placed with small business concerns."

CLARIFICATION OF APPLICABILITY OF CHAPTER 137 OF TITLE 10 TO THE  
SECRETARY OF DEFENSE; DEFINITIONS

SEC. 2722. (a) Section 2302 of title 10, United States Code, is amended to read as follows:

"§ 2302. Definitions

"In this chapter:

"(1) 'Head of an agency' means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

"(2) 'Competitive procedures' means procedures under which the head of an agency enters into a contract pursuant to full and open competition. Such term also includes—

"(A) procurement of architectural or engineering services conducted in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 541 et seq.);

"(B) the competitive selection for award of basic research proposals resulting from a general solicitation and the peer



review or scientific review (as appropriate) of such proposals; and

"(C) the procedures established by the Administrator of General Services for the multiple award schedule program of the General Services Administration if—

"(i) participation in the program has been open to all responsible sources; and

"(ii) orders and contracts under such program result in the lowest overall cost alternative to meet the needs of the United States.

"(3) The terms 'full and open competition' and 'responsible source' have the same meanings provided such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)."

(b) Section 2303 of such title is amended—

(1) in subsection (a)—

(A) by striking out "purchase, and contract to purchase," and inserting in lieu thereof "procurement";

(B) by striking out "named in subsection (b), and all services," and inserting in lieu thereof "(other than land) and all services";

(C) by redesignating clauses (1) through (5) as clauses (2) through (6), respectively; and

(D) by inserting before clause (2) (as so redesignated) the following new clause:

"(1) The Department of Defense.";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

#### PROCUREMENT PROCEDURES

SEC. 2723. (a)(1) Section 2304 of title 10, United States Code, is amended—

(A) by striking out subsections (a) through (e) and (g), (h), and (i);

(B) by redesignating subsection (f) as subsection (h); and

(C) by inserting after the section heading the following:

"(a)(1) Except as provided in subsections (b), (c), and (g) and except in the case of procurement procedures otherwise expressly authorized by statute, the head of an agency in conducting a procurement for property or services—

"(A) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this chapter and the modifications to regulations promulgated pursuant to section 2752 of the Competition in Contracting Act of 1984; and

"(B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

"(2) In determining the competitive procedure appropriate under the circumstances, the head of an agency—

"(A) shall solicit sealed bids if—

"(i) time permits the solicitation, submission, and evaluation of sealed bids;

"(ii) the award will be made on the basis of price and other price-related factors;





"(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

"(iv) there is a reasonable expectation of receiving more than one sealed bid; and

"(B) shall request competitive proposals if sealed bids are not appropriate under clause (A).

"(b)(1) The head of an agency may provide for the procurement of property or services covered by this chapter using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property or service if the head of the agency determines that to do so—

"(A) would increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of property or services;

"(B) would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the property or service in case of a national emergency or industrial mobilization; or

"(C) would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center.

"(2) In fulfilling the statutory requirements relating to small business concerns and socially and economically disadvantaged small business concerns, the head of an agency shall use competitive procedures but may restrict a solicitation to allow only such business concerns to compete.

"(c) The head of an agency may use procedures other than competitive procedures only when—

"(1) the property or services needed by the agency are available from only one responsible source and no other type of property or services will satisfy the needs of the agency;

"(2) the agency's need for the property or services is of such an unusual and compelling urgency that the United States would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals;

"(3) it is necessary to award the contract to a particular source or sources in order (A) to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve industrial mobilization, or (B) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center;

"(4) the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or the written directions of a foreign government reimbursing the agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of procedures other than competitive procedures;

"(5) a statute expressly authorizes or requires that the procurement be made through another agency or from a specified source, or the agency's need is for a brand-name commercial item for authorized resale;



“(6) the disclosure of the agency’s needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals; or

“(7) the head of the agency—

“(A) determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement concerned, and

“(B) notifies the Congress in writing of such determination not less than 30 days before the award of the contract.

“(d)(1) For the purposes of applying subsection (c)(1)—

“(A) in the case of a contract for property or services to be awarded on the basis of acceptance of an unsolicited research proposal, the property or services shall be considered to be available from only one source if the source has submitted an unsolicited research proposal that demonstrates a unique and innovative concept the substance of which is not otherwise available to the United States and does not resemble the substance of a pending competitive procurement; and

“(B) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment when it is likely that award to a source other than the original source would result in (i) substantial duplication of cost to the United States which is not expected to be recovered through competition, or (ii) unacceptable delays in fulfilling the agency’s needs, such property may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures.

“(2) The authority of the head of an agency under subsection (c)(7) may not be delegated.

“(e) The head of an agency using procedures other than competitive procedures to procure property or services by reason of the application of subsection (c)(2) or (c)(6) shall request offers from as many potential sources as is practicable under the circumstances.

“(f)(1) Except as provided in paragraph (2), the head of an agency may not award a contract using procedures other than competitive procedures unless—

“(A) the contracting officer for the contract justifies the use of such procedures in writing and certifies the accuracy and completeness of the justification;

“(B) the justification is approved—

“(i) in the case of a contract for an amount exceeding \$100,000 (but equal to or less than \$1,000,000), by the competition advocate for the procuring activity (without further delegation);

“(ii) in the case of a contract for an amount exceeding \$1,000,000 (but equal to or less than \$10,000,000), by the head of the procuring activity or a delegate who, if a member of the armed forces, is a general or flag officer or, if a civilian, is serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule); or

“(iii) in the case of a contract for an amount exceeding \$10,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation); and





"(C) any required notice has been published with respect to such contract pursuant to section 18 of the Office of Federal Procurement Policy Act and all bids or proposals received in response to that notice have been considered by the head of the agency.

"(2) In the case of a procurement permitted by subsection (c)(2), the justification and approval required by paragraph (1) may be made after the contract is awarded. The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act.

"(3) The justification required by paragraph (1)(A) shall include—

"(A) a description of the agency's needs;

"(B) an identification of the statutory exception from the requirement to use competitive procedures and a demonstration, based on the proposed contractor's qualifications or the nature of the procurement, of the reasons for using that exception;

"(C) a determination that the anticipated cost will be fair and reasonable;

"(D) a description of the market survey conducted or a statement of the reasons a market survey was not conducted;

"(E) a listing of the sources, if any, that expressed in writing an interest in the procurement; and

"(F) a statement of the actions, if any, the agency may take to remove or overcome any barrier to competition before a subsequent procurement for such needs.

"(4) The justification required by paragraph (1)(A) and any related information shall be made available for inspection by the public consistent with the provisions of section 552 of title 5.

"(5) In no case may the head of an agency—

"(A) enter into a contract for property or services using procedures other than competitive procedures on the basis of the lack of advance planning or concerns related to the amount of funds available to the agency for procurement functions; or

"(B) procure property or services from another agency unless such other agency complies fully with the requirements of this chapter in its procurement of such property or services.

The restriction contained in clause (B) is in addition to, and not in lieu of, any other restriction provided by law.

"(g)(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the regulations modified in accordance with section 2752 of the Competition in Contracting Act of 1984 shall provide for special simplified procedures for small purchases of property and services.

"(2) For the purposes of this chapter, a small purchase is a purchase or contract for an amount which does not exceed \$25,000.

"(3) A proposed purchase or contract for an amount above \$25,000 may not be divided into several purchases or contracts for lesser amounts in order to use the small purchase procedures required by paragraph (1).

"(4) In using small purchase procedures, the head of an agency shall promote competition to the maximum extent practicable."

(2) The heading of such section is amended to read as follows:



"§ 2304. Contracts: competition requirements".

(b) Section 2305 of such title is amended to read as follows:

"§ 2305. Contracts: planning, solicitation, evaluation, and award procedures

"(a)(1)(A) In preparing for the procurement of property or services, the head of an agency shall—

"(i) specify the agency's needs and solicit bids or proposals in a manner designed to achieve full and open competition for the procurement;

"(ii) use advance procurement planning and market research; and

"(iii) develop specifications in such manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired.

"(B) Each solicitation under this chapter shall include specifications which—

"(i) consistent with the provisions of this chapter, permit full and open competition; and

"(ii) include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the agency or as authorized by law.

"(C) For the purposes of subparagraphs (A) and (B), the type of specification included in a solicitation shall depend on the nature of the needs of the agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

"(i) function, so that a variety of products or services may qualify;

"(ii) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

"(iii) design requirements.

"(2) In addition to the specifications described in paragraph (1), a solicitation for sealed bids or competitive proposals (other than for small purchases) shall at a minimum include—

"(A) a statement of—

"(i) all significant factors (including price) which the head of the agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

"(ii) the relative importance assigned to each of those factors; and

"(B)(i) in the case of sealed bids—

"(I) a statement that sealed bids will be evaluated without discussions with the bidders; and

"(II) the time and place for the opening of the sealed bids; or

"(ii) in the case of competitive proposals—

"(I) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors, but might be evaluated and awarded without discussions with the offerors; and

"(II) the time and place for submission of proposals.

(b)(1) The head of an agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation.





"(2) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the head of the agency determines that such action is in the public interest.

"(3) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The head of the agency shall evaluate the bids without discussions with the bidders and, except as provided in paragraph (2), shall award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the United States, considering only price and the other price-related factors included in the solicitation. The award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(4)(A) The head of an agency shall evaluate competitive proposals and may award a contract—

"(i) after discussions conducted with the offerors at any time after receipt of the proposals and before the award of the contract; or

"(ii) without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) when it can be clearly demonstrated from the existence of full and open competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in the lowest overall cost to the United States.

"(B) In the case of award of a contract under subparagraph (A)(i), the head of the agency shall conduct, before such award, written or oral discussions with all responsible sources who submit proposals within the competitive range, considering only price and the other factors included in the solicitation.

"(C) In the case of award of a contract under subparagraph (A)(ii), the head of the agency shall award the contract based on the proposals received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(D) Except as provided in paragraph (2), the head of the agency shall award a contract with reasonable promptness to the responsible source whose proposal is most advantageous to the United States, considering only price and the other factors included in the solicitation. The head of the agency shall award the contract by transmitting written notice of the award to such source and shall promptly notify all other offerors of the rejection of their proposals.

"(5) If the head of an agency considers that a bid or proposal evidences a violation of the antitrust laws, he shall refer the bid or proposal to the Attorney General for appropriate action."

(c) The amendments made by this section do not supersede or affect the provisions of section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

#### COST OR PRICING DATA; CONFORMING AMENDMENTS

SEC. 2724. (a) The second sentence of subsection (a) of section 2306 of title 10, United States Code, is amended to read as follows: "Subject to the limitation in the preceding sentence, the other provisions of this section, and other applicable provisions of law, the head of an agency, in awarding contracts under this chapter after using procedures other than sealed-bid procedures, may enter into any kind of contract that he considers will promote the best interests of the United States".



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(b) Subsection (b) of such section is amended by striking out "negotiated under section 2304" in the first sentence of subsection (b) and inserting in lieu thereof "awarded under this chapter after using procedures other than sealed-bid procedures".

(c) Subsection (c) of such section is amended by striking out "section 2304 of this title," and inserting in lieu thereof "this chapter".

(d) Subsection (e) of such section is amended by striking out "\$25,000 or" in clause (2) and inserting in lieu thereof "the greater of (A) the small purchase amount under section 2304(g) of this title, or (B)".

(e) Subsection (f) of such section is amended—

(A) in paragraph (1)—

(i) by striking out "his" in the matter preceding clause (A) and inserting in lieu thereof "such contractor's or subcontractor's";

(ii) by striking out "he" in the matter preceding clause (A);

(iii) by striking out "negotiated prime contract under this title where" in clause (A) and inserting in lieu thereof "prime contract under this chapter entered into after using procedures other than sealed-bid procedures, if";

(iv) by striking out "for which" in clauses (B) and (D) and inserting in lieu thereof "if";

(v) by striking out "where" in clause (C) and inserting in lieu thereof "when";

(vi) by striking out "\$500,000" each place it appears and inserting in lieu thereof "\$100,000"; and

(vii) by striking out "prior to" each place it appears and inserting in lieu thereof "before";

(B) in paragraph (2), by striking out "negotiated" both places it appears;

(C) by redesignating paragraph (3) as paragraph (5) and striking out "negotiation," in such paragraph and inserting in lieu thereof "proposal for the contract, the discussions conducted on the proposal,";

(D) by inserting a period after "noncurrent" in paragraph (2);

(E) by striking out "Provided, That the requirements" in paragraph (2) and inserting in lieu thereof the following:

"(3) The requirements"; and

(F) by inserting after paragraph (3) (as designated by clause (E)) the following new paragraph:

"(4) When cost or pricing data is not required to be submitted by this subsection, such data may nevertheless be required by the head of the agency if the head of the agency determines that such data is necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract."

(f) The heading of such section is amended to read as follows:

"§ 2306. Kinds of contracts; cost or pricing data: truth in negotiation".

DETERMINATIONS AND DECISIONS

SEC. 2725. Section 2310 of title 10, United States Code, is amended—

(1) in subsection (a)—





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(A) by inserting “, except for determinations and decisions under section 2304 or 2305 of title,” in the first sentence after “contract or”; and

(B) by inserting “, including a determination or decision under section 2304 or 2305 of this title,” in the second sentence after “decision”; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

“(b) Each determination or decision under section 2306(c), 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision, which finding shall set out facts and circumstances that—

“(1) clearly indicate why the type of contract selected under section 2306(c) of this title is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality required except under such a contract;

“(2) support the findings required by section 2306(g)(1) of this title;

“(3) clearly indicate why advance payments under section 2307(c) of this title would be in the public interest; or

“(4) clearly indicate why the application of section 2313(b) of this title to a contract or subcontract with a foreign contractor or foreign subcontractor would not be in the public interest. Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies.”.

LIMITATION ON AUTHORITY TO DELEGATE CERTAIN FUNCTIONS

SEC. 2726. Section 2311 of title 10, United States Code, is amended—

(1) by striking out “The head” and inserting in lieu thereof “Except as provided in section 2304(d)(2) of this title, the head”; and

(2) by striking out “chapter” and all that follows and inserting in lieu thereof “chapter.”.

CONFORMING AMENDMENTS

SEC. 2727. (a) The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended—

(1) by striking out the item relating to section 2301 and inserting in lieu thereof the following:

“2301. Congressional defense procurement policy.”; and

(2) by striking out the items relating to sections 2304, 2305, and 2306 and inserting in lieu thereof the following:

“2304. Contracts: competition requirements.

“2305. Contracts: planning, solicitation, evaluation, and award procedures.

“2306. Kinds of contracts; cost or pricing data: truth in negotiation.”.

(b) Subsection (h) of section 2304 of such title (as redesignated by section 2723(a)(1)(B)) is amended—

(1) by striking out “negotiated under this section” and inserting in lieu thereof “awarded after using procedures other than sealed-bid procedures”; and



(2) by striking out "formal advertising" and inserting in lieu thereof "sealed-bid procedures".

(c) Section 2313(b) of such title is amended by striking out "negotiated under this chapter" and inserting in lieu thereof "awarded after using procedures other than sealed-bid procedures".

(d) Section 2356 of such title is amended by striking out "the formal advertising prescribed by section 2305 of this title" and inserting in lieu thereof "a solicitation for sealed bids under chapter 137 of this title".

## Subtitle C—Amendments to the Office of Federal Procurement Policy Act

### DEFINITIONS

SEC. 2731. The section of the Office of Federal Procurement Policy Act relating to definitions (41 U.S.C. 403) is redesignated as section 4 and is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(6) the term 'competitive procedures' means procedures under which an agency enters into a contract pursuant to full and open competition;

"(7) the term 'full and open competition', when used with respect to a procurement, means that all responsible sources are permitted to submit sealed bids or competitive proposals on the procurement; and

"(8) the term 'responsible source' means a prospective contractor who—

"(A) has adequate financial resources to perform the contract or the ability to obtain such resources;

"(B) is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and Government business commitments;

"(C) has a satisfactory performance record;

"(D) has a satisfactory record of integrity and business ethics;

"(E) has the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain such organization, experience, controls, and skills;

"(F) has the necessary production, construction, and technical equipment and facilities, or the ability to obtain such equipment and facilities; and

"(G) is otherwise qualified and eligible to receive an award under applicable laws and regulations."

### PROCUREMENT NOTICE AND RECORDS; ADVOCATES FOR COMPETITION

SEC. 2732. (a) The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following new sections:





"PROCUREMENT NOTICE

"Sec. 18. (a)(1) Except as provided in subsection (c)—

"(A) an executive agency intending to solicit bids or proposals for a contract for property or services for a price expected to exceed \$10,000 shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

"(B) an executive agency awarding a contract for property or services for a price exceeding \$25,000 shall furnish for publication by the Secretary of Commerce a notice announcing such award if there is likely to be any subcontract under such contract.

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice of a solicitation to the Secretary of Commerce, such executive agency may not—

"(A) issue such solicitation earlier than 15 days after the date on which such notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of all bids or proposals in response to such solicitation that is earlier than 30 days after the date on which such solicitation is issued.

"(b) Each notice required by subsection (a)(1)(A) shall include—

"(1) an accurate description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(2) the name, business address, and telephone number of the officer or employee of the executive agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(3) the name, business address, and telephone number of the contracting officer;

"(4) a statement that all responsible sources may submit a bid, proposal, or quotation which shall be considered by the executive agency; and

"(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of such procedures and the identity of the intended source.

"(c)(1) A notice is not required under subsection (a)(1) if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;

"(B) the proposed procurement would result from acceptance of any unsolicited proposal that demonstrates a unique and innovative research concept, and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal or would disclose proprietary information associated with the proposal;

"(C) the procurement is made against an order placed under a requirements contract, or

"(D) the procurement is made for perishable subsistence supplies.

"(2) The requirements of subsection (a)(1)(A) do not apply to any procurement under conditions described in clause (2), (3), (4), (5), or (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or clause (2), (3), (4), (5), or (7) of section 2304(c) of title 10, United States Code.



"(3) The requirements of subsection (a)(1)(A) shall not apply in the case of any procurement for which the head of the executive agency makes a determination in writing, with the concurrence of the Administrator, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

"RECORD REQUIREMENTS

"SEC. 19. (a) Each executive agency shall establish and maintain for a period of five years a computer file, by fiscal year, containing unclassified records of all procurements, other than small purchases, in such fiscal year.

"(b) The record established under subsection (a) shall include—

"(1) with respect to each procurement carried out using competitive procedures—

"(A) the date of contract award;

"(B) information identifying the source to whom the contract was awarded;

"(C) the property or services obtained by the Government under the procurement; and

"(D) the total cost of the procurement;

"(2) with respect to each procurement carried out using procedures other than competitive procedures—

"(A) the information described in clauses (1)(A), (1)(B), (1)(C), and (1)(D);

"(B) the reason under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or section 2304(c) of title 10, United States Code, as the case may be, for the use of such procedures; and

"(C) the identity of the organization or activity which conducted the procurement.

"(c) The information that is included in such record pursuant to subsection (b)(1) and relates to procurements resulting in the submission of a bid or proposal by only one responsible source shall be separately categorized from the information relating to other procurements included in such record. The record of such information shall be designated 'noncompetitive procurements using competitive procedures'.

"(d) The information included in the record established and maintained under subsection (a) shall be transmitted to the General Services Administration and shall be entered in the Federal Procurement Data System referred to in section 6(d)(4).

"ADVOCATES FOR COMPETITION

"SEC. 20. (a)(1) There is established in each executive agency an advocate for competition.

"(2) The head of each executive agency shall—

"(A) designate for the executive agency and for each procuring activity of the executive agency one officer or employee serving in a position authorized for such executive agency on the date of enactment of the Competition in Contracting Act of 1984 (other than the senior procurement executive designated pursuant to section 16(3)) to serve as the advocate for competition;





"(B) not assign such officers or employees any duties or responsibilities that are inconsistent with the duties and responsibilities of the advocates for competition; and

"(C) provide such officers or employees with such staff or assistance as may be necessary to carry out the duties and responsibilities of the advocate for competition, such as persons who are specialists in engineering, technical operations, contract administration, financial management, supply management, and utilization of small and disadvantaged business concerns.

"(b) The advocate for competition of an executive agency shall—

"(1) be responsible for challenging barriers to and promoting full and open competition in the procurement of property and services by the executive agency;

"(2) review the procurement activities of the executive agency;

"(3) identify and report to the senior procurement executive of the executive agency designated pursuant to section 16(3)—

"(A) opportunities and actions taken to achieve full and open competition in the procurement activities of the executive agency; and

"(B) any condition or action which has the effect of unnecessarily restricting competition in the procurement actions of the executive agency; and

"(4) prepare and transmit to such senior procurement executive an annual report describing—

"(A) such advocate's activities under this section;

"(B) new initiatives required to increase competition; and

"(C) barriers to full and open competition that remain;

"(5) recommend to the senior procurement executive of the executive agency goals and the plans for increasing competition on a fiscal year basis;

"(6) recommend to the senior procurement executive of the executive agency a system of personal and organizational accountability for competition, which may include the use of recognition and awards to motivate program managers, contracting officers, and others in authority to promote competition in procurement programs; and

"(7) describe other ways in which the executive agency has emphasized competition in programs for procurement training and research.

"(c) The advocate for competition for each procuring activity shall be responsible for challenging barriers to and promoting full and open competition in the procuring activity, including unnecessarily detailed specifications and unnecessarily restrictive statements of need.

#### "ANNUAL REPORT ON COMPETITION

"SEC. 21. (a) Not later than January 31 of each of 1986, 1987, 1988, 1989, and 1990, the head of each executive agency shall transmit to each House of Congress a report including the information specified in subsection (b).

"(b) Each report under subsection (a) shall include—

"(1) a specific description of all actions that the head of the executive agency intends to take during the current fiscal year to—



“(A) increase competition for contracts with the executive agency on the basis of cost and other significant factors; and

“(B) reduce the number and dollar value of noncompetitive contracts entered into by the executive agency; and

“(2) a summary of the activities and accomplishments of the advocate for competition of the executive agency during the preceding fiscal year.”.

(b)(1) Section 6(e) of such Act (41 U.S.C. 405(e)) is amended by striking out “subsection (c)” and inserting in lieu thereof “subsection (d)”.

(2) Section 16(1) of such Act (41 U.S.C. 414(1)) is amended to read as follows:

“(1) increase the use of full and open competition in the procurement of property or services by the executive agency by establishing policies, procedures, and practices that assure that the executive agency receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government’s requirements (including performance and delivery schedules) at the lowest reasonable cost considering the nature of the property or service procured;”.

## Subtitle D—Procurement Protest System

### PROCUREMENT PROTEST SYSTEM

SEC. 2741. (a) Chapter 35 of title 31, United States Code, is amended by adding at the end thereof the following new subchapter:

#### “SUBCHAPTER V—PROCUREMENT PROTEST SYSTEM

##### “§ 3551. Definitions

“In this subchapter—

“(1) ‘protest’ means a written objection by an interested party to a solicitation by an executive agency for bids or proposals for a proposed contract for the procurement of property or services or a written objection by an interested party to a proposed award or the award of such a contract;

“(2) ‘interested party’, with respect to a contract or proposed contract described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

“(3) ‘Federal agency’ has the meaning given such term by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

##### “§ 3552. Protests by interested parties concerning procurement actions

“A protest concerning an alleged violation of a procurement statute or regulation shall be decided by the Comptroller General if filed in accordance with this subchapter. An interested party who has filed a protest under section 111(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(h)) with respect to a procurement or proposed procurement may not file a protest with respect to that procurement under this subchapter.





“§ 3553. Review of protests; effect on contracts pending decision

“(a) Under procedures prescribed under section 3555 of this title, the Comptroller General shall decide a protest submitted to the Comptroller General by an interested party.

“(b)(1) Within one working day of the receipt of a protest, the Comptroller General shall notify the Federal agency involved of the protest.

“(2) Except as provided in paragraph (3) of this subsection, a Federal agency receiving a notice of a protested procurement under paragraph (1) of this subsection shall submit to the Comptroller General a complete report (including all relevant documents) on the protested procurement—

“(A) within 25 working days from the date of the agency’s receipt of that notice;

“(B) if the Comptroller General, upon a showing by the Federal agency, determines (and states the reasons in writing) that the specific circumstances of the protest require a longer period, within the longer period determined by the Comptroller General; or

“(C) in a case determined by the Comptroller General to be suitable for the express option under section 3554(a)(2) of this title, within 10 working days from the date of the Federal agency’s receipt of that determination.

“(3) A Federal agency need not submit a report to the Comptroller General pursuant to paragraph (2) of this subsection if the agency is sooner notified by the Comptroller General that the protest concerned has been dismissed under section 3554(a)(3) of this title.

“(c)(1) Except as provided in paragraph (2) of this subsection, a contract may not be awarded in any procurement after the Federal agency has received notice of a protest with respect to such procurement from the Comptroller General and while the protest is pending.

“(2) The head of the procuring activity responsible for award of a contract may authorize the award of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

“(A) upon a written finding that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General under this subchapter; and

“(B) after the Comptroller General is advised of that finding.

“(3) A finding may not be made under paragraph (2)(A) of this subsection unless the award of the contract is otherwise likely to occur within 30 days thereafter.

“(d)(1) If a Federal agency receives notice of a protest under this section after the contract has been awarded but within 10 days of the date of the contract award, the Federal agency (except as provided under paragraph (2)) shall, upon receipt of that notice, immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract. Performance of the contract may not be resumed while the protest is pending.

“(2) The head of the procuring activity responsible for award of a contract may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—



“(A) upon a written finding—

“(i) that performance of the contract is in the best interests of the United States; or

“(ii) that urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

“(B) after the Comptroller General is notified of that finding.

“(e) The authority of the head of the procuring activity to make findings and to authorize the award and performance of contracts under subsections (c) and (d) of this section may not be delegated.

“(f) Within such deadlines as the Comptroller General prescribes, upon request each Federal agency shall provide to an interested party any document relevant to a protested procurement action (including the report required by subsection (b)(2) of this section) that would not give that party a competitive advantage and that the party is otherwise authorized by law to receive.

“§ 3554. Decisions on protests

“(a)(1) To the maximum extent practicable, the Comptroller General shall provide for the inexpensive and expeditious resolution of protests under this subchapter. Except as provided under paragraph (2) of this subsection, the Comptroller General shall issue a final decision concerning a protest within 90 working days from the date the protest is submitted to the Comptroller General unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period.

“(2) The Comptroller General shall, by regulation prescribed pursuant to section 3555 of this title, establish an express option for deciding those protests which the Comptroller General determines suitable for resolution within 45 calendar days from the date the protest is submitted.

“(3) The Comptroller General may dismiss a protest that the Comptroller General determines is frivolous or which, on its face, does not state a valid basis for protest.

“(b)(1) With respect to a solicitation for a contract, or a proposed award or the award of a contract, protested under this subchapter, the Comptroller General may determine whether the solicitation, proposed award, or award complies with statute and regulation. If the Comptroller General determines that the solicitation, proposed award, or award does not comply with a statute or regulation, the Comptroller General shall recommend that the Federal agency—

“(A) refrain from exercising any of its options under the contract;

“(B) recompet the contract immediately;

“(C) issue a new solicitation;

“(D) terminate the contract;

“(E) award a contract consistent with the requirements of such statute and regulation;

“(F) implement any combination of recommendations under clauses (A), (B), (C), (D), and (E); or

“(G) implement such other recommendations as the Comptroller General determines to be necessary in order to promote compliance with procurement statutes and regulations.

“(2) If the head of the procuring activity responsible for a contract makes a finding under section 3553(d)(2)(A)(i) of this title, the Comp-





troller General shall make recommendations under this subsection without regard to any cost or disruption from terminating, recompeting, or reawarding the contract.

“(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may declare an appropriate interested party to be entitled to the costs of—

“(A) filing and pursuing the protest, including reasonable attorneys’ fees; and

“(B) bid and proposal preparation.

“(2) Monetary awards to which a party is declared to be entitled under paragraph (1) of this subsection shall be paid promptly by the Federal agency concerned out of funds available to or for the use of the Federal agency for the procurement of property and services.

“(d) Each decision of the Comptroller General under this subchapter shall be signed by the Comptroller General or a designee for that purpose. A copy of the decision shall be made available to the interested parties, the head of the procuring activity responsible for the solicitation, proposed award, or award of the contract, and the senior procurement executive of the Federal agency involved.

“(e)(1) The head of the procuring activity responsible for the solicitation, proposed award, or award of the contract shall report to the Comptroller General, if the Federal agency has not fully implemented those recommendations within 60 days of receipt of the Comptroller General’s recommendations under subsection (b) of this section.

“(2) Not later than January 31 of each year, the Comptroller General shall transmit to Congress a report describing each instance in which a Federal agency did not fully implement the Comptroller General’s recommendations during the preceding fiscal year.

**“§ 3555. Regulations; authority of Comptroller General to verify assertions**

“(a) Not later than January 15, 1985, the Comptroller General shall prescribe such procedures as may be necessary to the expeditious decision of protests under this subchapter, including procedures for accelerated resolution of protests under the express option authorized by section 3554(a)(2) of this title. Such procedures shall provide that the protest process may not be delayed by the failure of a party to make a filing within the time provided for the filing.

“(b) The Comptroller General may use any authority available under chapter 7 of this title and this chapter to verify assertions made by parties in protests under this subchapter.

**“§ 3556. Nonexclusivity of remedies; matters included in agency record**

“This subchapter does not give the Comptroller General exclusive jurisdiction over protests, and nothing contained in this subchapter shall affect the right of any interested party to file a protest with the contracting agency or to file an action in a district court of the United States or the United States Claims Court. In any such action based on a procurement or proposed procurement with respect to which a protest has been filed under this subchapter, the reports required by sections 3553(b)(2) and 3554(e)(1) of this title with respect to such procurement or proposed procurement and any decision or recommendation of the Comptroller General under this subchapter



with respect to such procurement or proposed procurement shall be considered to be part of the agency record subject to review.”.

(b) The analysis for such chapter is amended by adding at the end thereof the following:

**“SUBCHAPTER V—PROCUREMENT PROTEST SYSTEM**

“3551. Definitions.

“3552. Protests by interested parties concerning procurement actions.

“3553. Review of protests; effect on contracts pending decision.

“3554. Decisions on protests.

“3555. Regulations; authority of Comptroller General to verify assertions.

“3556. Nonexclusivity of remedies; matters included in agency record.”.

## **Subtitle E—Effective Date; Regulations; Study**

### **EFFECTIVE DATES**

SEC. 2751. (a) Except as provided in subsection (b), the amendments made by this title shall apply with respect to any solicitation for bids or proposals issued after March 31, 1985.

(b) The amendments made by section 2713 and subtitle D shall apply with respect to any protest filed after January 14, 1985.

### **MODIFICATION OF FEDERAL ACQUISITION REGULATIONS**

SEC. 2752. Not later than March 31, 1985, the single Government-wide procurement regulation referred to in section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)) shall be modified to conform to the requirements of this title and the amendments made by this title.

### **STUDY OF ALTERNATIVES**

SEC. 2753. (a) Not later than January 31, 1985, the Administrator of the Office of Federal Procurement Policy, in consultation with the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration, shall complete a study of alternatives and recommend to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a plan to increase the opportunities to achieve full and open competition on the basis of technical qualifications, quality, and other factors in the procurement of professional, technical, and managerial services.

(b) Such plan shall provide for testing the recommended alternative and be developed in accordance with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413), and be consistent with the policies set forth in section 2 of such Act (41 U.S.C. 401).

## **TITLE VIII—FEDERAL CREDIT UNION ACT AMENDMENTS**

SEC. 2801. Section 201(b)(8) of the Federal Credit Union Act (12 U.S.C. 1781(b)(8)) is amended to read as follows:

“(8) to pay and maintain its deposit and to pay the premium charges for insurance imposed by this title; and”.





SEC. 2802. Section 202 (b) of the Federal Credit Union Act (12 U.S.C. 1782(b)) is amended to read as follows:

"(b)(1) For each insurance year, each insured credit union which became insured prior to the beginning of that year shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the preceding insurance year and both the amount of its deposit or adjustment thereof and the amount of the premium charge for insurance due to the fund for that year, both as computed under subsection (c) of this section.

"(2) The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require.

"(3) Each such statement shall be certified by the president of the credit union, or by any officer of the credit union designated by its board of directors, that to the best of his knowledge and belief that statement is true, correct, and complete and in accordance with this title and regulations issued thereunder."

SEC. 2803. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)) is amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (1) as paragraph (2);

(3) by striking out "Except as provided in paragraph (2) of this subsection, each" in paragraph (2), as redesignated, and inserting in lieu thereof "Each";

(4) by striking out "on or before January 31 of each insurance year" in paragraph (2), as redesignated, and inserting in lieu thereof "at such time as the Board prescribes";

(5) by striking out "member accounts" in paragraph (2), as redesignated, and inserting in lieu thereof "insured shares"; and

(6) by inserting before paragraph (2) the following:

"(1)(A)(i) Each insured credit union shall pay to and maintain with the National Credit Union Share Insurance Fund a deposit in an amount equaling 1 per centum of the credit union's insured shares.

"(ii) The Board may, in its discretion, authorize insured credit unions to initially fund such deposit over a period of time in excess of one year if necessary to avoid adverse effects on the condition of insured credit unions.

"(iii) The amount of each insured credit union's deposit shall be adjusted annually, in accordance with procedures determined by the Board, to reflect changes in the credit union's insured shares.

"(B)(i) The deposit shall be returned to an insured credit union in the event that its insurance coverage is terminated, it converts to insurance coverage from another source, or in the event the operations of the fund are transferred from the National Credit Union Administration Board.

"(ii) The deposit shall be returned in accordance with procedures and valuation methods determined by the Board, but in no event shall the deposit be returned any later than one year after the final date on which no shares of the credit union are insured by the Board.

"(iii) The deposit shall not be returned in the event of liquidation on account of bankruptcy or insolvency.

"(iv) The deposit funds may be used by the fund if necessary to meet its expenses, in which case the amount so used shall be -



expensed and shall be replenished by insured credit unions in accordance with procedures established by the Board.”.

SEC. 2804. Section 202(c)(3) of the Federal Credit Union Act (12 U.S.C. 1782(c)(3)) is amended to read as follows:

“(3) When, at the end of a given insurance year, any loans to the fund from the Federal Government and the interest thereon have been repaid and the equity of the fund exceeds the normal operating level, the Board shall effect for that insurance year a pro rata distribution to insured credit unions of an amount sufficient to reduce the equity in the fund to its normal operating level.”.

SEC. 2805. Section 202(c)(4) of the Federal Credit Union Act (12 U.S.C. 1782(c)(4)) is repealed.

SEC. 2806. (a) Subsections (d) through (f) of section 202 of the Federal Credit Union Act (12 U.S.C. 1782 (d) through (f)) are amended—

(1) by inserting “its deposit or” before the words “the premium charge” and “any premium charge” each time they appear, other than in the second sentence of subsection (e) of section 202; and

(2) by striking out “member accounts” and inserting in lieu thereof “insured shares”.

(b) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended—

(1) in the first sentence of subsection (e), by inserting “deposit or” after “the amount of any unpaid”;

(2) in the second sentence of subsection (e), by inserting “deposit or” before “premium charge due”; and

(3) in the first sentence of subsection (f), by inserting “deposit or” after “statement or pay any such”.

SEC. 2807. Section 202(g) of the Federal Credit Union Act (12 U.S.C. 1782(g)) is amended—

(1) by striking out “statements, and premium charges” and inserting in lieu thereof “statements, and deposit and premium charges”;

(2) by striking out “payment of any premium charge” and inserting in lieu thereof “payment of any deposit or adjustment thereof or any premium charge”; and

(3) by striking out “any premium charge for insurance” and inserting in lieu thereof “any deposit or adjustment thereof or any premium charge for insurance”.

SEC. 2808. Section 202(h)(1) of the Federal Credit Union Act (12 U.S.C. 1782(h)(1)) is amended by inserting before the semicolon at the end thereof the following: “, unless otherwise prescribed by the Board”.

SEC. 2809. Section 202(h)(2) of the Federal Credit Union Act (12 U.S.C. 1782(h)(2)) is amended to read as follows:

“(2) the term ‘normal operating level’, when applied to the fund, means an amount equal to 1.3 per centum of the aggregate amount of the insured shares in all insured credit unions, or such lower level as the Board may determine; and”.

SEC. 2810. Section 202(h)(3) of the Federal Credit Union Act (12 U.S.C. 1782(h)(3)) is amended to read as follows:

“(3) the term ‘insured shares’ when applied to this section includes share, share draft, share certificate and other similar accounts as determined by the Board, but does not include amounts in excess of the insured account limit set forth in section 207(c)(1).”.





SEC. 2811. Section 203(b) of the Federal Credit Union Act (12 U.S.C. 1783(b)) is amended—

(1) by inserting "deposits and" before "premium charges"; and

(2) by adding at the end thereof the following: "The Board shall report annually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives with respect to the operating level of the fund. Such report shall also include the results of an independent audit of the fund."

SEC. 2812. Section 206(d)(1) of the Federal Credit Union Act (12 U.S.C. 1786(d)(1)) is amended—

(1) by inserting "(1)" after "subsection (a)";

(2) by inserting "maintain its deposit with and" before "pay premiums to the Board"; and

(3) by adding at the end thereof the following sentence: "Notwithstanding the above, when an insured credit union's insured status is terminated and the credit union subsequently obtains comparable insurance coverage from another source, insurance of its accounts by the fund may cease immediately upon the effective date of such comparable coverage by mutual consent of the credit union and the Board."

SEC. 2813. (a) Title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.) is amended—

(1) in section 303 by inserting ", an instrumentality of the United States," after "Central Liquidity Facility" in the second sentence; and

(2) by adding at the end thereof the following:

**"STATE AND LOCAL TAX EXEMPTION**

"SEC. 312. (a) The Central Liquidity Facility, and its franchise, activities, capital reserves, surplus, and income, shall be exempt from all State and local taxation now or hereafter imposed, other than taxes on real property held by the Facility (to the same extent, according to its value, as other similar property held by other persons is taxed).

"(b)(1) Except as provided in paragraph (2), the notes, bonds, debentures, and other obligations issued on behalf of the Central Liquidity Facility and the income therefrom shall be exempt from all State and local taxation now or hereafter imposed.

"(2) Any obligation described in paragraph (1) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

"(c) For purposes of this section—

"(1) the term 'State' includes the District of Columbia; and

"(2) taxes imposed by counties or municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes."

(b)(1) Section 501 of the Internal Revenue Code of 1954 (relating to organizations exempt from tax), as amended by section 1032(a) of this Act, is amended by redesignating subsection (l) as subsection (m) and by adding after subsection (k) the following new subsection:

"(1) GOVERNMENT CORPORATIONS EXEMPT UNDER SUBSECTION (c)(1).—The organization described in this subsection is the Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.)."



(2) Paragraph (1) of section 501(c) of such Code (listing exempt organizations) is amended to read as follows:

“(1) any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

“(A) is exempt from Federal income taxes under such Act, as amended and supplemented, or

“(B) is described in subsection (1).”

(c) The amendments made by this section shall take effect on October 1, 1979.

ELIMINATION OF PAYROLL DEDUCTION FEES ON FINANCIAL  
ORGANIZATIONS; ADMINISTRATION OF DISBURSING FUNCTIONS

SEC. 2814. (a) Section 3332(b) of title 31, United States Code, is amended by inserting “without charge” after “shall be sent”.

(b) Section 3332 of title 31, United States Code, is amended by striking out subsection (c) and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

## TITLE IX—MISCELLANEOUS PROVISIONS

### COST SAVINGS BY ADMINISTRATIVE ACTION

SEC. 2901. (a) It is the sense of the Congress that—

(1) departments, agencies, and instrumentalities of the executive branch of government can continue to make significant management improvements in—

(A) the travel and transportation of personnel and transportation of things for personnel;

(B) the use of consultant services;

(C) public affairs, public relations, and advertising activities;

(D) publishing, printing, reproduction, and audio visual activities;

(E) identification, recovery, and collection of Federal overpayments, delinquencies, and indebtedness; and

(F) the operation, maintenance, management, leasing, acquisition, and disposal of motor vehicles; and

(2) such improvements can result in better use of funds and reductions in expenditures for such activities.

(b) Within six months after the date of enactment of this Act, the Director of the Office of Management and Budget shall prepare and transmit to the Committees on Appropriations and Budget of the Senate and House of Representatives and the Senate Governmental Affairs and House Government Operations Committees a report describing for each of the categories specified in subparagraphs (A) through (F) of subsection (a)(1)—

(1) the baseline cost (or best estimate thereof) for fiscal year 1984;

(2) the savings (below such baseline cost or estimate) that can reasonably be expected to be achieved for fiscal year 1985 by improved management;

(3) an explanation of how such savings will be achieved; and

(4) if necessary, draft legislation to achieve such savings.

(c) If the expected savings described pursuant to subsection (b)(2) are—





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(1) less than \$750,000,000 for the category specified in subparagraph (A) of subsection (a)(1),  
(2) less than \$1,000,000,000 for the category specified in subparagraph (B) of such subsection,  
(3) less than \$100,000,000 for the category specified in subparagraph (C) of such subsection,  
(4) less than \$250,000,000 for the category specified in subparagraph (D) of such subsection,  
(5) less than \$2,100,000,000 for the category specified in subparagraph (E) of such subsection, or  
(6) less than \$160,000,000 for the category specified in subparagraph (F) of such subsection,  
the report shall state the reasons why the amount specified in paragraph (1), (2), (3), (4), (5), or (6) is not achievable.

DISPOSAL OF CERTAIN LANDS AT MONTAUK AIR FORCE BASE

SEC. 2902. (a) The Congress finds that—

(1) the highest and best use of the lands described in subsection (b)(1) of this section is use as a park or recreational area;

(2) the State of New York has indicated a willingness to convey by donation to the United States the fee interest to the lands described in subsection (b)(2);

(3) therefore the Administrator of General Services should assign to the Secretary of the Interior the lands described in subsection (b)(1) for use as a public park or recreational area; and

(4) the Secretary of the Interior should, simultaneous with acceptance of the lands described in subsection (b)(2), convey the property described in subsection (b)(1) to the State of New York for use as a public park or recreational area through a public discount conveyance under section 203(k)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(2)).

(b)(1) The lands described in this subsection are those portions of the Montauk Air Force Station in East Hampton Township, Suffolk County, New York, totaling approximately 278 acres, that were declared surplus to the needs of the United States Government on December 21, 1981.

(2) The lands described in this subsection are approximately 125 acres of real property owned by the State of New York within the boundaries of the Fire Island National Seashore.

COST SAVINGS REPORT BY THE PRESIDENT

SEC. 2903. The President shall review recent recommendations for management improvement and cost control opportunities including those made by congressional committees, executive and legislative branch agencies, educational and research organizations, and public and private boards, task forces, councils, panels, and study groups, which require administrative or Presidential action. A report on such review shall be submitted with the Budget of the United States Government transmitted in January 1985 under section 1105(a) of title 31, United States Code, and shall contain a list of the recommendations the President has reviewed, the source of those recommendations, the actions which the President proposes to take or has



taken, and the amount of cost savings expected to result therefrom in fiscal years 1985, 1986, and 1987.

**COST SAVINGS BY COMMITTEE**

SEC. 2904. Each authorizing committee of the Senate and House of Representatives shall review the report required under section 2903 and make recommendations from that report to the Budget Committees including any necessary changes in laws to allow for or facilitate the achievement of savings as identified in that report. The resulting recommendations shall be transmitted to the Budget Committee as part of each committee's report submitted pursuant to section 301(c) of Public Law 93-344, on March 15, 1985.

**ANALYSES OF BUDGET ASSUMPTIONS**

SEC. 2905. (a) The director of the Congressional Budget Office shall conduct a study of the nature and reliability of the assumptions upon which budget estimates are based for concurrent resolutions on the budget adopted by the Congress and make a report to the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate by June 1, 1985. Such study shall identify—

(1) the reasons for the differences between actual revenues and outlays and the revenue and outlay estimates used for concurrent resolutions on the budget;

(2) the extent to which any systematic biases exist in the assumptions or methods used for making revenue and outlay estimates for the concurrent resolutions on the budget; and

(3) the extent to which the use of alternative assumptions or estimating methods would improve the accuracy of budget estimates used by the Congress. This would include time-series analyses of historical budget patterns and economic trends.

(b) On a trial basis, the Congressional Budget Office shall conduct in consultation with the General Accounting Office a review of the budget estimates prepared by the Department of Defense and one civilian agency to determine whether:

(1) there is a systematic underestimation of the costs required to carry out the policies, programs and projects proposed; and

(2) what effects any systematic costing errors may have upon the long-run costs of programs, the mix of programs implemented and the effectiveness of programs in meeting agency missions and goals.

The General Accounting Office component of this review shall look at all phases of budget preparation and program evaluation in the agencies selected, and shall examine historical patterns of funding to determine the effect of cost estimation biases.

**FORMULA APPROACH TO FEDERAL BUDGETING**

SEC. 2906. The Director of the Congressional Budget Office and the Director of the Office of Management and Budget shall each, in consultation with the Chairman and ranking member of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, conduct a study of the administrative feasibility and potential impact in terms of effectiveness and equitability of applying alternative formula approaches to





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the entire Federal budget. These studies may include, but need not be limited to, the following formulas:

(1) a fraction (not necessarily limited to less than 1.0) of historical trends in spending within functions or categories of the budget;

(2) an equal percentage growth rate, or an equal percentage reduction in the growth rate of, each function or category of the budget;

(3) a set of percentage growth rates, whereby the budget is divided into major categories and a different percentage growth rate is then applied to each category;

(4) a fraction (not necessarily limited to less than 1.0) of the growth in the Gross National Product (as calculated by the Congressional Budget Office or the Office of Management and Budget) applied to each function or category of the budget. The Congressional Budget Office and the Office of Management and Budget shall each report the findings of such study to the Congress no later than December 31, 1984.

MINING OF NICARAGUAN PORTS

SEC. 2907. It is the sense of the Congress that no funds heretofore or hereafter appropriated in any Act of Congress shall be obligated or expended for the purpose of planning, directing, executing, or supporting the mining of the ports or territorial waters of Nicaragua.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

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